



# ISLAMIC INHERITANCE

A BEGINNER'S GUIDE

Translation of  
Sh. Kifayatullah Sanabili's

**Tafheem ul-Faraa'idh**

**RAZA HASAN**

Reviewed by: Shamsurrah Khan Salafi

**ISLAMIC INFORMATION CENTRE**

Kurla , Mumbai

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**RAZA HASSAN**

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Translator : Raza Hassan  
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## Reviewer's Preface

Praise and glory be to Allah; blessings and peace be upon the Prophet Muhammad, his family and followers.

An absolutely true and oft-repeated dictum regarding Islam is that it's a comprehensive code of life. The sources of Islam have always been fit and competent to legislate on each matter concerning every walk of life. The whole grand edifice of Islamic scholarship especially in the field of Islamic jurisprudence encompassing all spheres of human activities forms a body of undeniable evidences corroborating the above claim and proving the comprehensiveness of Islam beyond any doubt. Islamic Science of Inheritance that deals with the distribution of a person's wealth after his/her death among his/her inheritors is also a testimony to the said fact and constitutes an important branch of study that contributes to the completeness of an Islamic society and leads to the ground-level realization of the goals and objectives of Islam.

The importance of the Islamic Science of Inheritance cannot be overemphasized. The Holy Qur'an has conferred on the theme of inheritance a privilege of detailing, granted to only a few matters and issues. A large number of the Prophetic Traditions explaining the concerned verses, discussing the technicalities of the field further and urging the Muslims to learn the Islamic Science of Inheritance, and implement it in their lives, are in line with the avowed significance of the field.

An important thing deserves to be accorded the due importance. However, the common behavior towards the Islamic Science of Inheritance in our society is painful. The time and energy that should be invested in learning and understanding it is conspicuous by its absence. Moreover, a criminal negligence in implementing the rules of inheritance is too widespread and evident to mention. A large section of our society does not even seem to remember anything such as Islamic rules of inheritance. An important Islamic obligation is being crushed mercilessly under our sinful feet. A huge majority among us

is merely a mute spectator and, to say the least, accomplice in the crime. Only a few valiant soldiers of Islam are up in arms to fight against the evil and stir up the collective conscience of the Muslim society to the urgent and inevitable need of reviving the field both in study and practice. Resources at their disposal are meagre and humble, hurdles in their way are numerous and massive, but they're standing tall defending the fortress of Islam and alerting the folks to the cause of its defense.

My knowledge about Shaikh Kifayatullah Sanabli is more academic than personal. Like many, I also have been a fortunate beneficiary of Shaikh's erudition and research acumen that are manifested vividly in his books and articles. The book that's in your hands is another example of his erudition, painstaking study, ability to simplify complex subject-matter as well as his tireless efforts to goad the Muslim society to revive a neglected Islamic obligation.

The original book is in Urdu. Mr. Raza Hassan has translated it into English. The decision of getting the book translated into English was a good and blessed one, which will enlarge the reach of the book and expand the circle of its beneficiaries. It was an extraordinary display of benevolence from Shaikh Kifayatullah Sanabli towards me when he sent the translated work along with the original book to me for a review of the translation, which I could not refuse despite being unequipped adequately for the task. I could finish the review in around nine months. During these around nine months which is a huge time period for a review, Shaikh remained tolerant towards me, for which I'm thankful to him. A plausible explanation for the delay lies in the long illness and then the demise of my father during the said period which kept me occupied and disturbed. The reviewer is taking the risk of digressing a little here deliberately just to request the readers to pray for his deceased father.

To the best of my knowledge and ability, the translation is accurate. Mr. Raza Hassan, the respected translator of the book has taken all care to understand the sentences correctly and translate them accurately. He's endeavored to be honest to the original style of expression, in which he's been quite successful. The simple and easy-

to-understand language that he's adopted and maintained in translation is particularly praiseworthy, which is often so difficult while dealing with a subject-matter as complex as Islamic inheritance. Translating terminologies is a tough and challenging task for any translator. One needs to balance so many delicate considerations simultaneously. Mr. Raza Hassan has risen up skillfully to this difficult task as well, which speaks volumes about the hard work he's invested in translating the work. Moreover, he's also added his notes at many places in the book, which add to the value of the book and increase its overall comprehensibility. As a whole, it's a neat and clean work of translation with added benefits. I'm confident that readers will find it extremely useful and deeply enlightening.

Finally, I pray to Allah to grant the book high acceptability among people and gigantic success in its goals and objectives! May Allah accept the work and reward the author, the translator, the reviewer, the publisher and all connected with the work directly or indirectly in this world and the hereafter! Aaameen!

Shamsurrah Khan Salafi

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March 21, 2021

## Translator's Preface

This translation is produced upon the request and approval of the author. When I first read this book, originally written in the Urdu language, I found it to be a unique and exceptional approach to understanding the Fiqh of Inheritance. Impressed by the simplicity and ease of understanding of a topic as complex as Inheritance, I thought to myself that this is something worth translating into English for a wider audience to appreciate. I contacted the author, who is an old friend and mentor of mine, expressing my desire of translating this book of his. It turned out that he was already looking for someone to translate it into English and I just happened to pop in at the right place at the right time.

Driven by the same goal as the author, I have tried my best to make this translation as easy as possible for a beginner level student to understand. However, it is not easy to convey an idea or a concept addressed in a certain language with its own technicalities as well as cultural and linguistic nuances in expressing something, into another language. Therefore, I hope that I have succeeded in representing the author's ideas as well as his unique capability of expressing things in an easy to understand manner. I have tried to reproduce the author's own choice of words and his preference for the precise expression of his thought rather than the word conventionally expected. For that purpose, I have also included my own notes and explanations in places where I felt that the author's style of expression needs explanation for the English audience, or that an idea or concept simply could be clarified further.

Distinction between the text of the book and the explanatory notes of my own is made by a number of indicators. One of them being a clearly specified indication saying that this is a translator's note within square brackets like so: [Translator's Note: ...]. The other indicators of saying the same are as follows:

- [Trans: ]
- [Translator: ]

- []

Note that all of the translator's notes are written inside the square brackets. So if a text is written inside the square brackets without any indication of who it is from, then it should be understood that it is from the translator. On the other hand, all explanatory notes of the author are written inside the parenthesis (). One exception to this is the mention of references of certain book, as they are mostly written inside square brackets even though they are from the author, e.g. the references of verses like: [al-Nisaa (4: 11)].

In keeping with the author's aim of learning by connecting with the evidences, I've also included the Arabic names of all the key concepts and words along with their translation. However, not all occurrences of a word may have both the Arabic and the translation written side by side. In some places, only the Arabic word may be used to refer to an idea only because it is either a widely used and common word which does not need translation or that word has already been explained or translated in its earlier occurrence.

For ease of access and reference, a glossary of terms is also included in the end under Appendix A, listing all the key words used in the book along with their brief definitions.

Under Appendix B, I have included a list of all the Qur'anic verses referenced in this book.

Under Appendix C, I have included a list of all the Prophetic Ahadeeth referenced in this book.

May Allaah make this book beneficial and easy for anyone who seeks to learn this science, and May He accept it from us Ameen

Raza Hassan

4/11/2021

## Author's Preface

Inheritance is the only science that Allaah, the Most High has explained with utmost detail in the Holy Qur'an. No other issue has been mentioned with this much detail in the Qur'an. Moreover, this science is related to each individual, so it is very important for everyone to learn it. It is highly unacceptable, especially in the Indian sub-continent, to allow negligence of any kind in this science. That is because, like the days of pre-Islamic Ignorance (Jaahiliyyah), there are numerous places in this region where women are not given their share in inheritance at all. Notwithstanding the fact that the Holy Qur'an has mentioned the details of Inheritance in the Chapter of Women (Soorat al-Nisaa) itself.

Even stranger is how, on one hand, the sons of the deceased usurp the entire estate of their father and do not count the daughters in anything, while on the other hand, if daughters are the only surviving descendants of the deceased, then they seize all of the property and do not give anything to the brothers and sisters of the deceased. And if their father's parents are also alive, then neither the sons nor the daughters pay any attention to their share. Like this, the males consume the shares of females on some occasions and females consume the shares of males in other occasions.

Keep in mind that inheritance is related to the rights of the people (Huqooq ul-'Ibaad); and whoever usurps someone else's share of inheritance, he will be held accountable for every penny. After mentioning the details of inheritance in the Qur'an, Allaah Almighty has given glad tidings of paradise to those who act upon it, and a warning of hellfire to those who transgress and disobey his commandments.

Therefore, it is important that one learns the Islamic system of Inheritance and teaches it to others. Unfortunately, this science is being treated very negligently among us, and one reason for that is because it is perceived to be difficult. On the contrary, this science is

so easy that some people have said: “هو علم يوم وليلة” (i.e. it is a science that can be learned within 24 hours).

However, even though something can be easy in itself, but if it is not presented in an easy manner then it becomes difficult. On the contrary, if a difficult thing is presented in an easy manner, it becomes significantly easy. It has always been my aim when writing anything, to do so with utmost simplicity and in line with common understanding so that every reader is able to understand it. All praise is to Allaah, this attempt has been successful for the most part, as attested by many of the readers verbally and in writing.

When I heard the feedbacks of so many of the readers saying that the writings of my-humble-self contain the element of simplification, and that they make even the most difficult of discussions easy to understand, I thought to myself that I should also write a book on the science of Inheritance. It is quite possible that this science, too, can be made easy for some people through me, and thus it becomes a means of continuous rewards (thawaab jaariya) for me. With this intention in mind, the process of compiling this book was completed, Alhamdulillah.

According to my limited experience, the causes for this science being difficult are the following:

- (1) [Teachers and Books] utilize complex and traditional principles to explain things, instead of utilizing easy and modern methods.
- (2) Appropriate order or sequence is not used in the common books, which creates a lot of confusions.
- (3) A distinction is not made between the important and non-important discussions, due to which a student assumes that the knowledge of all of the discussions is important. As a result, struggle to acquire everything results in the loss of everything.
- (4) Instead of explaining things in light of their reasoning and evidences, rules and principles are crammed into the students and end results are taught in light of them. From this, one may be able to learn the end results but he won't be able to understand the

evidences. Based on this, when you ask those who learn the science of inheritance like this to solve a problem, they would well be able to solve it but if someone asks them for the evidence, they become helpless.

In fact, if these people stopped doing these exercises on their own for a while, then all of this crammed knowledge would vanish from their heads. That is because, without understanding the relationship between the evidences and the rules, and simply cramming the rules may be easier for temporary memorization, but it becomes difficult to retain them in the memory in the long run. In fact those who are accustomed to learning things through reasoning and understanding, it is even harder for them to cram something. This, also, makes this science difficult to learn.

In this book, a lot of effort is vested into removing these causes and presenting this science in as easy terms as possible. Instead of cramming things, effort is put into explaining them. For that reason, this book is named “Tafheem ul-Faraa’idh”. It is hoped that this book will prove to be easy for the students, in-sha-Allaah. The book is divided into one Introduction and Six Parts.

### ➤ **Introduction:**

This section briefly mentions the Introduction of Ilm ul-Faraa’idh, Categories where the wealth is to be spent, and Conditions of Inheritance etc. It is important to understand the conditions of inheritance in this section very well so that the later discussions like the discussion of missing person’s inheritance and simultaneous deaths can be easily understood.

### ➤ **Part One: Heirs:**

This part has three chapters:

#### Chapter One: List of Heirs:

The list of heirs is divided into [four] groups (Spouses, Descendants, Ascendants, and Siblings). Then each group is mentioned in order according to its level. Moreover, the heirs in



each group are also mentioned in order according to their levels. Learning the heirs in this manner has the following benefits:

- (1) It becomes easier to memorize the list of all heirs.
- (2) The relation of the heirs with the deceased and their position becomes easier to learn.
- (3) The order of the 'asabah with respect to their category, level and strength is also learned.
- (4) This order proves helpful in understanding and applying the rules of hajib (blocking).
- (5) It becomes easier to memorize the cases of and distribute the shares to the fixed sharers and the 'asabah
- (6) If there is a need to distribute wealth among the dhawul-arhaam in the absence of the heirs then this list also helps in that.

The fifth group of heirs is the group of slave emancipators but we did not mention it in the list of heirs rather it's mentioned separately. That is because, firstly, this list contains only the relatives of the deceased (by blood or by marriage) whereas the matter of slave emancipators is different. And secondly, this group has no existence in the modern world. That is why it is useless to talk about them. However, because they come under 'asabah, so they are mentioned briefly under the discussion of 'asabah. It should not be understood from this that we have excluded the slave emancipators from the list of heirs altogether, rather it should be noted that this list is only for the related heirs only.

Based on this, the number of male heirs in our list is (14), while the other books mention the number of male heirs to be (15) which is because one additional heir refers to the slave emancipator.

We have counted both types of grandmothers, whether it be maternal grandmother or paternal grandmother, as one. Some scholars counted them as one as it is mentioned in many books of Inheritance. This is more appropriate according to us, because they both are in the same level and they share the same share between each other. Whereas, some other scholars have counted the both of

them separately. Based on that, the number of female heirs according to them gets incremented by one.

In addition, we have separated the group of slave emancipators which also has one female in it. Due to these two reasons, the number of female heirs in our list is (8), whereas this number according to other scholars would be (10).

Regardless of what language this book is written in, the names of the relations are mentioned in arabic [also] because we believe that while learning and teaching this knowledge, the names of the relations should be mentioned in arabic at key places, so that it becomes even easier to form a connection with the evidences (mentioned in the Qur'an and Sunnah).

One reason for this knowledge being perceived as difficult is that rules and principles are crammed while ignoring the evidences. Whereas, the more appropriate and better thing to do is to learn by connecting the rules of this knowledge with its evidences. And to make that easier, the names of the heirs should be used in Arabic itself.

## Chapter Two: Types of Heirs:

In this chapter, the first type of heirs, i.e. the fixed sharers, are discussed briefly and the conditions and requisites for them to get a share are not discussed here.

After that, the second type of heirs, i.e. the 'asabah, are discussed in detail along with the conditions and requisites for them to get a share. It means that before discussing the shares of fixed sharers in detail, we have discussed the shares of 'asabah, and this sequence is different from the common books of Faraa'idh.

In the common books of Faraa'idh, the fixed sharers (Ashaab ul-Furoodh) are discussed first and then the 'asabah are discussed. This is, perhaps, because there is a hadeeth which says the fixed sharers should be given their shares first and then what's left behind should be given to the asabah. However, the actual import of this hadeeth is simply that the 'asabah heirs would get the residue of the

fixed sharers; but adopting a method of teaching based on this hadeeth in which fixed sharers will be discussed first and 'asabah later, is not appropriate. That is because a complete understanding of the fixed sharers is possible only when one has completely understood the discussion of 'asabah. In fact, the Holy Qur'an itself began the discussion of inheritance by first mentioning the 'asabah.

It should be noted that the discussion of 'asabah is very easy, and it makes the discussion of fixed sharers easy as well. However, by learning about the 'asabah after the fixed sharers, it makes both of these discussions difficult; because in that case, the solution to any case depends on the crammed up rules, not on understanding.

After the 'asabah, the category of Dhawul-Arhaam is mentioned, but none of its details are mentioned in this chapter, because the need to give them any share comes extremely rarely. In addition, their details are not only disputed upon but they're complex as well. However, a brief discussion on them has been mentioned at the end of the book, which should be sufficient.

### Chapter Three: Heirs with respect to their eligibility or lack thereof (Hajab):

In the common books of Faraa'idh, this discussion is mentioned not only after Ashaab ul-Furoodh (Fixed Sharers) but even after the discussion of 'Asabah, which has made this knowledge much harder. That is because the exercise of distributing shares does not happen after this, due to which one does not get to practice and apply the principles of hajab in those exercises. It should be noted that the one who did not properly understand the discussion of hajab, the science of inheritance can never become easy for him. That is because, giving the heirs their shares without knowing this depends completely on the crammed up rules of the eligibility of the heirs.

In this chapter, the rules of hajab are mentioned first, which is the summary of the entire discussion on hajab. After that, the evidences for those rules are also mentioned so that the concept of hajab is completely understood.

Keep in mind that the difficulties encountered in distributing shares to the heirs is basically caused by the lack of understanding of the discussion of 'asabah and hajab. There are only two ways of alleviating this difficulty: you should either completely understand the concept of the categories of heirs and the shares that they receive, or do a really good job in cramming the conditions necessary for heirs to receive a share. The first method is ideal for a well-grounded and deep understanding, while the second method requires a skilled capability of cramming. The first method is indeed the most beneficial and appropriate.

The Qur'an has specified the maximum share of the daughter category to be two-thirds. Therefore, if in a case, the daughters of an upper level/generation receive the entire two-thirds of the share, then there does not remain anything behind for the daughters of a lower level/generation [like son's daughter] to get anything from the fixed share category. However, they can receive a share from 'asabah category. The same is the case with the sisters.

In these cases, when the lower level daughters or sisters do not get anything because of two-thirds being spent on the daughters or sisters of an upper level and there is nothing left behind, then they [lower level daughters or sisters] are not called mahjoob (blocked) but instead mahroom (deprived).

However, in this book, wherever we have mentioned a general condition of an heir being mahjoob (blocked), we have included the case of mahroom (deprived) in it. But a clarification on their distinction is made at the place of its detail.

## ➤ **Part Two: Shares of Heirs:**

This chapter contains the details of the shares of Ashab ul-Furoodh along with the exercises of the rules and principles of 'asabah and hajab. If the discussion of 'asabah and hajab is understood well, then this stage is very easy.

In practice, there are two ways of mentioning the shares of Ashaab ul-Furoodh:

First Method: A share such as one-half ( $1/2$ ) is mentioned, then it is detailed as to who among the heirs will receive this share and with what conditions. All the shares are mentioned in this manner.

Second Method: A fixed sharer such as a daughter is mentioned, then all the conditions and cases of her getting a share are mentioned.

This book has adopted this second method, because it is easier to understand. And, Allaah the Most High has mentioned the shares of ashaab ul-furoodh in the Qur'an in the same manner.

In this discussion, all the cases of each heir are first mentioned in a brief manner, and the order of listing those cases is such that once an earlier case is proven true, then none of the later cases have a possibility, and once a later case is proven true, then all of the earlier cases are nonexistent.

One benefit of learning the cases of heirs in this order is that if one of the earlier cases is determined, then there is no need to even think about any of the other cases.

Another benefit of this order is that no case can be left behind, because the need for a later case would arrive only after the first case is eliminated.

It was sufficient in itself to simply mention these general cases in order, but since the main purpose in this book is to make things simple and comprehensible, so we have also mentioned the shares of all the heirs along with their evidences and reasoning with details, so that the cases of the shares of heirs are well settled in the mind with respect to their evidences and categories.

The relatives that are Haajib (Blocker) or 'Aasib [One who causes another relative to become asabah] are mentioned by their descriptive titles instead of their relation title. However, a clarification is provided either in parenthesis or under the details.

This is the only part of the book whose details are more than the other common books of Faraa'idh. In fact, this part could have easily been presented in one page, as it is done in the end of the book. If we remove the details of this part, the table of contents, the preface, and the additional detail from the chapters of radd (return) and Munaasakha from this book, then this book would not extend more than 90 pages despite its small size.

The purpose of mentioning these details in this part is only that these things are instilled in the mind forever, and one does not need to cram or look at the charts while distributing shares. Simplification and Ease of Understanding can sometimes demand conciseness and other times it needs a lot more details.

### ➤ **Part Three: Basification and Correction:**

In this section, only one method of basification (ta'seel) is mentioned, and it is presented in a lot easier manner than other common books. Besides this, all the other traditional and chart based methods that are mentioned in the books of Faraa'idh are totally ignored. Especially, the discussion of "Number Relations (نسب بين العددين)" is absolutely wrong to be brought here. Some people start introducing the discussion of Number Relations from here so that it becomes easier to use them later on in the discussions of radd, Munaasakha and others. But in this book of ours, one can learn the entire science of Inheritance without ever needing the aid of these relations.

We have only discussed these relations in the chapter of Munaasakha, and that too, after first providing an alternative method, and only for the sake of supplementary information. It means that it is not necessary to learn this method.

As for correction (tasheeh), this is not a special requirement. That is because the group that needs a correction can simply have its share redistributed separately. Therefore, there is no need to change the shares of all other heirs and the asal mas'ala for this. However, in some rare cases such as the case of a missing person or the case of a fetus etc., there does arise a need for tasheeh in the early stages of

calculation. That is why the concept of tasheeh is explained as well, and it is done in an easy to understand way.

➤ **Part Four: Types of Inheritance Cases (Equilibrium, Excess, & Deficiency):**

This is the easiest discussion in the science of Inheritance, but unfortunately, the books of Faraa'idh have presented the case of Naaqisah (deficiency) in a very complex manner because of the spouses. We have provided two methods of solving the case of Spouses. The first method is very easy and sufficient. But the second method is also mentioned for the sake of supplementary information in an easy manner. However, it is not necessary to learn it.

There is a difference of opinion among the Hanbali Madhab and the other three madhaahib on the semantic application of "Naaqisah" and "Radd". But this is nothing more than a syntactic difference. That is why we have not given any attention to it. However, our discussion is in accordance with the rest of the three madhaahib.

➤ **Part Five: Rare Cases:**

In this section, only those cases are mentioned which occur very rarely such as the cases of Munaasakha <sup>(1)</sup>, Missing person, Fetus, Hermaphrodite, and simultaneous deaths.

Under the solution of the case of Munaasakha, the method that is mentioned is extremely easy and if one uses that method, he would not need any other information to solve this problem. However, the other method is also mentioned in the easiest manner, for the sake of supplementary information. If the reader encounters any difficulty in understanding this second method, then he should

---

1 - Munaasakha is from the rare cases, but when the Islamic system of inheritance has been neglected, or if there is an intentional delay in distributing shares due to being in a combined family, then the case of Munaasakha is needed much more often, as it is the case in the sub-continent.

simply ignore it because the first method is sufficient for it. Among the cases that have made the knowledge of inheritance difficult, the case of Munaasakha has a huge part in it. By the will of Allaah, this chapter would not cause any difficulty in this book.

The method of solving the cases of missing person, fetus, and hermaphrodite is only one. That is why we have mentioned all three of them together; and the case of missing person is mentioned first because this method can be learned in the least time in this case. Whereas it takes relatively longer to learn in the case of fetus. And the case of hermaphrodite is mentioned later because it contains a small addition.

The case of simultaneous deaths is kept at the very end because its need only arises due to acting upon a non-preponderant opinion. However, this is the most correct opinion according to some people, so it is mentioned in order to allow those people to act upon it.

### ➤ **Part Six: Wealth Distribution:**

In this part, the method of distributing wealth among the heirs is mentioned, which is very easy.

Explanation of some terminologies of this book:

**Hadeeth of ‘Asabah:** Whenever in this book, the phrase “hadeeth of ‘Asabah” is mentioned in general, it refers to the muttafaqun alayh [narrated by both Bukhari and Muslim in their Saheeh] hadeeth which is mentioned in page (41) [Also see: Appendix C, H # 8].

**Hadeeth of Ibn Mas’ood:** Whenever in this book, the phrase “hadeeth of Ibn Mas’ood” is mentioned in general, it refers to the hadeeth mentioned in page (78) [Also see: Appendix C, H # 9].

### ➤ **Conclusion:**

The details of dhawul-arhaam are not mentioned while discussing the types of heirs because the need to give them a share arises very rarely, so here at the end, some brief and important



details about them are mentioned. At the end, we've also mentioned the summary of the opinion of Zayd bin Thaabit (radiallah anhu) regarding the method of "Disengaging" and the "Inheritance of a grandfather with siblings".

This is where the book ends. We have tried our best to avoid any grammatical or academic mistakes in this book, but despite one's best efforts, no one can make an absolute claim of accuracy. Therefore, we request our readers to provide us with their opinions and corrections so we may mend ourselves. May Allaah grant success to this effort of my insignificant self, and may He make it beneficial for everyone. Ameen.

*Abu al-Fawzan Kifayatullah Sanabli, Mumbai*

15 Rabi' ul-Awwal 1439 AH – 4 December 2017 CE

## A Note to the Teachers

- 1- One thing that is very important with respect to this science is that it would be very difficult to try to understand this without a teacher, perhaps even impossible. This should be made clear to the students.
- 2- Make the students first learn and memorize the Qur'anic verses and relevant ahadeeth related to Inheritance.
- 3- This science relates to both fiqh and mathematics. In the common books of Faraa'idh, math is mostly the main tool used to teach this science, but an effort should be made to teach this science by connecting the math with the fiqh i.e. evidences of the Book and the Sunnah, so that the students become capable of solving a problem with the evidences of the Book and Sunnah.
- 4- Make the students understand the discussion of 'asabah well. And in the discussion of hajib, at least the principles should be well taught and exercised. The evidences of the principles of hajib should be taught briefly in the beginning, and the details should be explained from time to time at appropriate places.
- 5- When discussing Hajab, it is better not to delve into the details of Hajab bil-Wasf, Hajab bil-Shakhs, Hajab Nuqsan, Hajab Hirman, and so on. These things are appropriate only for the advanced level students. That is why these details are not mentioned in this book.
- 6- We have only mentioned those rules and principles in this book which we have found to be easy according to our own sense and experience, but not everyone has the same kind of perception and understanding. That is why, if a need is felt, the teachers should also take the help of other books and mention the other rules and principles as well.
- 7- The supplementary information concerning the discussions of radd, Munaasakha, simultaneous deaths and dhawul-arhaam should be taught at the very end.
- 8- The details mentioned under the explanation of the conditions for the shares of ashaab ul-furoodh are only for the purpose of simplification and ease of understanding, the students should not be asked to cram or memorize them.

# INTRODUCTION (المقدمة)

## INTRODUCTION OF ILM UL-FARAA'IDH

### Linguistic meaning of “Fardh”:

Faraa'idh is the plural of Fareedhah. It comes from the word Fardh, which has several meanings, e.g.: to reveal, to obligate, to appoint, to specify, to explain, to make permissible.

Ilm al-Faraa'idh contains all of these meanings because this science was revealed by Allaah, who explained its rulings, obligated putting it into action, and specified the shares of some heirs and so on.

The verse of inheritance contains the word “Fareedhah” and “Mafroodha”. That is why this science was called “Ilm al-Faraa'idh”.

### Technical meaning of “Fardh”:

The share of each inheritor specified in a specific quantity.

### Definition of Ilm al-Faraa'idh:

This is a science through which one attains knowledge of the deceased person's heirs and non-heirs, as well as their shares.

Other names for this science are “Ilm ul-Wiraathah”, “Ilm ul-Meeraath”, or “Ilm ul-Mawaareeth”.

### Linguistic Meaning:

Meeraath comes from wiraathah, and its plural is Mawaareeth. Wiraathah has several meanings, one of which is: to transfer someone's belongings from one person to another person. This is the meaning intended in this science.

### Technical Meaning:

The right that an heir gets from the wealth of his muwarrath (the one who is inherited i.e. the deceased).

## The goal & aim of Ilm al-Faraa'idh:

The purpose of this science is to distribute the wealth of the deceased to his rightful heirs according to their rights.

## The subject matter of Ilm al-Faraa'idh:

The subject of this science is the wealth or estate that is left behind by the deceased at the time of his death.

## The Ruling on Learning Ilm al-Faraa'idh:

To learn this science along with all of its details is a communal obligation (Fardh Kifaayah). However, what is minimally obligatory upon every muslim male and female is to know that it is obligatory to hand over the wealth of the deceased to its rightful heirs according to the Qur'an and Sunnah.

## The Importance and Virtues of Ilm al-Faraa'idh:

The importance and virtue of this science is evident from the fact that Allaah Ta'ala has explained this science with utmost details in the Qur'an. He has promised paradise for the one who acts in accordance with it and has given severe warning to the one who acts against it.

Anas bin Maalik (radiallah anhu) narrates:

عن أنس بن مالك، أن رسول الله صلى الله عليه وسلم قال: «أرحم أمتي بأمتي أبو بكر، وأشدهم في دين الله عمر، وأصدقهم حياء عثمان، وأقضاهم علي بن أبي طالب، وأقرؤهم لكتاب الله أبي بن كعب، وأعلمهم بالحلal والحرام معاذ بن جبل، وأفرضهم زيد بن ثابت، ألا وإن لكل أمة أمينا، وأمين هذه الأمة أبو عبيدة بن الجراح»

“The Messenger of Allaah (ﷺ) said: The most merciful of my Ummah towards my Ummah is Abu Bakr; the one who adheres most sternly to the religion of Allah is 'Umar; the most sincere of them in shyness and modesty is 'Uthman; the best judge is 'Ali bin Abu Talib; the best in reciting the Book of Allah is Ubayy bin Ka'b; the most knowledgeable of what is lawful and unlawful is Mu'adh bin Jabal;

and the most knowledgeable of the rules of inheritance (Fara'idh) is Zaid bin Thabit. And every nation has a trustworthy guardian, and the trustworthy guardian of this Ummah is Abu 'Ubaidah bin Jarrah.”

[Sunan Ibn Maajah (154), Saheeh]

In this hadeeth, Allaah's Apostle (ﷺ) has mentioned some important traits and specialties of some Sahaabah along with the Rightly Guided Caliphs (radiallah anhum). Among these Companions, he mentioned Zayd bin Thaabit (radiallah anhu) and as his special trait, he mentioned that he is the most knowledgeable and skilled in the rules of inheritance. This hadeeth gives us a glimpse of the importance and virtue of Ilm al-Faraa'idh.

## TARIKAH (ESTATE)

### Linguistic Meaning:

It comes from the word “Tark” which means to leave or abandon.

### Technical Meaning:

The wealth that the deceased leaves behind in whatever shape or form is called “Tarikah”.

### Categories where Tarikah is to be spent

The wealth/estate left by a deceased is to be spent stage by stage in the order mentioned below. If the entire wealth is spent in one of the earlier stages and there is nothing left for the next stages, then there is no need to even go to the next stage.

#### (1) Funeral Expenses

The funeral expenses of the deceased are to be taken from the wealth of the deceased. Things used for the funeral are to be of average quality.

## **(2) Paying off Debt**

(a) If the deceased owes a type of debt in which the creditor has acquired some belongings of the deceased as a security or collateral (Rahn), then that debt will be paid off and the wealth that was part of the collateral will be collected and combined with the Tarikah.

(b) And if the deceased owes a regular debt then if the debt is owed to just one person then he will be given whatever is owed to him. And if the tarikah is less than the amount of debt, then all of the tarikah will be handed over to the creditor.

If the deceased owed debt to multiple people and if his tarikah is enough to pay off the debt of all of the people, then they all will be given the amount that is due to them. However, if the tarikah is less and the sum of all debts is more, then each creditor will be given the amount proportional to what he is owed <sup>(2)</sup>.

(c) If the deceased owed a debt to Allaah, e.g. he had vowed to spend in the way of Allaah, then that amount will be taken from his tarikah to fulfill his vow of spending in the way of Allaah.

## **(3) Fulfillment of the Will:**

If the deceased has made a permissible will regarding less than or equal to one-third of his wealth, then that amount of wealth will be spent in the fulfillment of his will.

It should be noted that if the deceased had made a will regarding an impermissible matter then his will shall not be implemented. And if he had made a will regarding more than one-third of his wealth, then only one-third of his wealth will be used to fulfill that will. That is because it is narrated in several ahadeeth that it is prohibited to make a will exceeding more than one-third of the wealth. For example, in one hadeeth, the Prophet (ﷺ) said:

«الثالث والثالث كثير»

“(Bequest of) One-Third (is permissible), and (even) one-third is a lot”

[Saheeh Bukhaari (5354)]

Moreover, if the will or bequest is done regarding one of the inheritors, then too, the bequest will not be fulfilled, because Allaah's Apostle (ﷺ) said:

«إن الله قد أعطى كل ذي حق حقه فلا وصية لوارث»

“Allaah has appointed for everyone who has a right what is due to him, so no bequest must be made to an heir”

[Sunan Abu Dawood (2870), Saheeh]

#### **(4) Distributing the Inheritance among the Heirs:**

According to Islamic Law, distribution of tarikah (wealth) under Meeraath, i.e. this last step, is the sole aim of Ilm al-Faraa'idh.

#### **❖ The Pillars of Inheritance:**

There are three pillars of inheritance:

- (1) Muwarrath (The one who is inherited i.e. the Devisor i.e. the Deceased),
- (2) Waarith (the heir/inheritor),
- (3) Mawrooth (that which is inherited i.e. the wealth or tarikah)

#### **❖ The Causes of Inheritance:**

There are three causes of inheritance:

- (1) Marriage,
- (2) Lineage,
- (3) Walaa (the relationship between the freed-slave and his master who freed him)

If the husband had given a revocable divorce to his wife, and the husband died during the 'idda (waiting period for the wife), then the wife will still be eligible for inheritance.

The evidences for marriage and lineage are the verses of inheritance [Soorah al-Nisaa (Chapter 4: Verses 11 & 176)]

And the evidence for Walaa is the following saying of the Prophet (ﷺ):

"إِنَّمَا الْوَلَاءُ لِمَنْ أَعْتَقَ"

“Walaa is for the one who manumits”

[Saheeh Bukhaari (6752)]

### ❖ The Conditions of Inheritance:

There are three conditions of inheritance:

- (1) Having a certain knowledge of the death of the Muwarrath (one who is inherited), and this can be achieved in three ways:  
**First:** Observation – i.e., the muwarrath is seen by eyes in the deceased state.  
**Second:** Judgement – i.e., the judge declares someone who is missing or lost to be dead based on reasoning.  
**Third:** Circumstantial Assessment – for instance, someone hits a pregnant woman due to which she has a miscarriage, the diyyah (blood money) for this fetus will be distributed among its heirs. In this situation, it cannot be said that the child had already died in the womb, rather the ruling will be based on the circumstantial evidence which is that the fetus died only after this incident, and that it was alive before it.
- (2) Having a certain knowledge that the heir is/was alive (using the same three methods mentioned above for ascertaining the death) at the time the Muwarrath passed away. (A missing person during the waiting time of his return, and a child in the form of an embryo are considered to be alive based on judgmental evidence).
- (3) The cause of inheritance is known.

The evidences for these conditions are the general verses and ahadeeth of meeraath. For details, read the book “Al-Mugheeth bi-Adillat il-Mawaareeth”.



## ❖ The Obstacles of Inheritance:

There are three obstacles to inheritance:

- (1) When an Heir kills his/her Muwarrath.
- (2) When either the Heir or the Muwarrath is a non-Muslim.
- (3) When the Heir is a slave, male or female.

The evidence for the first obstacle is the saying of the Prophet (ﷺ):

"ليس للقاتل من الميراث شيء"

“There is no share of inheritance for a murderer (who kills his muwarrath)”

[Sunan Daaraqutni (5/170 H. 4149), Hasan Lighayrih]

One wisdom behind this is to ensure that someone does not kill his muwarrath due to his/her greed of acquiring inheritance before its time.

The evidence for the second obstacle is the saying of the Prophet (ﷺ):

"لا يرث المسلم الكافر ولا الكافر المسلم"

“A Muslim does not inherit from a non-Muslim, nor does a non-Muslim inherit from a Muslim.”

[Saheeh Bukhaari (6764)]

The evidence for the third obstacle is the saying of the Prophet (ﷺ):

"ومن ابتاع عبدا وله مال فماله للذي باعه، إلا أن يشترط المبتاع"

“If somebody buys a slave having some property, the property will belong to the seller unless the buyer stipulates that it should belong to him”

[Saheeh Bukhaari (2379)]

# PART ONE: HEIRS

This part consists of three chapters:

- ❖ Chapter One: List of Heirs/Inheritors
- ❖ Chapter Two: Types of Heirs
- ❖ Chapter Three: Heirs with respect to their eligibility or lack thereof (Hajab/Exclusion/Blockage)

## CHAPTER ONE: LIST OF HEIRS/INHERITORS

The list of heirs is the central topic of Ilm al-Faraa'idh. Therefore, this list should be memorized before anything.

The heirs of the deceased can be divided into the following four groups. With the help of this grouping, it will be very easy to memorize the list of heirs. First of all, the readers should memorize and settle these groups in their minds in the given order, then all the heirs will be mentioned under each group.

- 1- **First:** Zawjayn (Spouses) <sup>(3)</sup>
- 2- **Second:** Furoo' (Children/Descendants/Lower Generation)
- 3- **Third:** Usool (Parents/Roots/Upper Generation)
- 4- **Fourth:** Hawaashi (Siblings/Parallel relatives)

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**3 -** In some books of Faraa'idh, zawjayn are mentioned after the blood relatives because blood relations are stronger than the relation of marriage. Whereas, in other books, zawjayn are mentioned first. We have chosen this second method because this is more beneficial with respect to understanding, especially when in the naqisah case there is a case of Spousal Return, then zawjayn are the first one of the groups who are given the share. Therefore, while learning this science it is better to maintain an order that will be consistent in every case. Remember that in order to make this science easy to understand, one should try his best to keep the mind clear of any confusions.

Now the list of all heirs under these groups is as follows:

## Heirs

### Zawjayn (زوجين) (Spouses)

Male	Female
(1) Husband (زوج)	(2) Wife (زوجة)

### Furoo' (فروع) (Descendants/Lower Generation)

Male	Female
(3) Son (ابن)	(4) Daughter (بنت)
(5) Son's Son (ابن الإبن)	(6) Son's Daughter (بنت الإبن)

### Usool (أصول) (Parents/Upper Generation)

Male	Female
(7) Father (أب)	(8) Mother (أم)
(9) Father's Father (أبو الأب)	(10) Father's Mother & Mother's Mother (أم الأب و أم الأم)

### Hawaashi (حواشي) (Siblings/Parallel Relatives)

#### Siblings (الأخوة)

Male	Female
Brother of every type	Sister of every type

(الأخ من جميع الجهات)	(الأخت من جميع الجهات)
(11) Full-Brother (الأخ الشقيق)	(12) Full-Sister (الأخت الشقيقة)
(13) Consanguine Brother (i.e. Half-Brother with common father) (الأخ لأب)	(14) Consanguine Sister (i.e. Half-Sister with common father) (الأخت لأب)
(15) Uterine Brother (i.e. Half-Brother with common Mother) (الأخ لأم)	(16) Uterine Sister (i.e. Half-Sister with common Mother) (الأخت لأم)
Sons of non-Uterine Brothers	
(17) Son of Full Brother (ابن الأخ الشقيق)	
(18) Son of Consanguine Brother (ابن الأخ لأب)	
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>Uncle-hood (العمومة)</b> </div>	
(19) Full Uncle (i.e. Father's full brother) (العم الشقيق)	
(20) Consanguine Uncle (i.e. Father's Consanguine Brother) (العم لأب)	
(21) Son of Full Uncle (ابن العم الشقيق)	
(22) Son of Consanguine Uncle (ابن العم لأب)	

**Notes:**

- ❖ Father's Father is also referred to as "al-Jadd al-Saheeh" (True Grandfather).

- ❖ Father's Mother (Paternal Grandmother) and Mother's Mother (Maternal Grandmother) are both referred to as "al-Jaddah al-Saheehah" (True Grandmother)
- ❖ In the Uncles sub-category of the Hawaashi, no female becomes an heir.
- ❖ [Translator's Note: It should be noted that some of the common relatives that are not listed in the list above, which are: Daughter's Children, Mother's Father, Mother's Siblings, Father's Sisters, Sister's Children, Children of Uterine Sibling, and Daughters of Uncle, do not inherit from the deceased. They are neither Ashaab ul-Furoodh nor 'Asabah, instead they are Zawul-Arhaam, and the only way they can inherit is when none of the Ashaab ul-Furoodh or the Asabah are present or alive.]

### **The number of Heirs and their categories:**

The total number of male and female heirs is 22. The number of male heirs is 14. The number of female heirs is 8.

All of these heirs are either Ashaab ul-Furoodh (fixed sharers) or 'Asabah (Residuaries by reason of blood relationship or manumission) or both at the same time. The evidences for Ashaab ul-Furoodh (fixed sharers) are in separate different verses and narrations, and the evidence for 'Asabah is the hadeeth of 'Asabah. All of these evidences will be mentioned later in the book. After reading the evidences there, the reader should re-visit this list so that this list can be memorized in light of the evidences.

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### **The continuity of some relations:**

- ❖ Son's Daughter (Grand-Daughter / بنت الإبن) – A daughter through the lineage of son with the continuity of male offspring, no matter how low it descends, will be counted under this category i.e. of "Son's Daughter" [Translator's note: For example, son's son's daughter & son's son's son's daughter (no matter how low it descends) will come under the category of "Son's Daughter (بنت الإبن)"].

- ❖ Jaddah Saheehah (True Grandmother i.e. Father's mother or Mother's Mother) – True grandmother through the continuity of the lineage of true grandfather or through the continuity of female after the parent, no matter how far it goes, will be counted as the mother of father or mother of mother.  
[Translator's note: For example, father's father's father's mother (no matter how far it goes through the continuity of true grandfather), & mother's mother's mother's mother (no matter how far it goes with the continuity of female after the parent i.e. mother); included in this is: father's mother's mother (with the continuity of female after parent i.e. father)]
- ❖ Asabah bil-Nafs (Residuaries by themselves) – A residuary with the continuity of the male, no matter how far the generation goes, they will come under 'Asabah  
[Translator's note: For example, (son), (son's son), & (son's son's son) are all under this category]

Actually, the words used for some relations in the scriptures are those whose meanings are vast and are indicative of continuity in the relations. Later on, when we discuss such relations with their evidences, this will automatically make sense. Therefore, what's important here is to simply suffice by memorizing the list.

## CHAPTER TWO: TYPES OF HEIRS

There are three types of heirs:

- 1- Ashaab ul-Furoodh (Fixed Sharers)
- 2- 'Asabah (Residuaries)
- 3- Zawul-Arhaam (Distant Kindred)

### ❖ First Type: Ashaab ul-Furoodh (Possessors of Obligatory Share or Fixed Sharers)

The linguistic and technical meaning of “Fardh” is already explained in the introduction. From this, we get Ashaab ul-Furoodh, which refers to those heirs whose shares are fixed or determined, for example: Husband's share is determined to be one-half or one-fourth.

Only **four** of the **male** heirs are among the Ashaab ul-Furoodh [Husband (زوج), Father (أب), Father's Father (أبو الأب), & Uterine Brother (أخ لأم)].

And **all** of the **female** heirs are among the Ashaab ul-Furoodh, which are 8 in number [Wife (زوجة), Daughter (بنت), Son's Daughter (بنت الإبن), Mother (أم), Grandmother (جدة), Full Sister (أخت شقيقة), Consanguine Sister (أخت لأب), & Uterine Sister (أخت لأم)].

So the total number of Ashaab ul-Furoodh (those whose share is fixed when eligible) is 12.

Among them, only **6** are those who always retain their status as Ashaab ul-Furoodh [i.e. Husband (زوج), Wife (زوجة), Uterine Brother (أخ لأم), Uterine Sister (أخت لأم), Mother (أم), and Grandmother (جدة)].

Whereas, the remaining can sometimes become Asabah [Trans: Residuary i.e. those who inherit what's left of the wealth after being distributed among the fixed sharers instead of having a fixed share of their own]

According to the Qur'an and Sunnah, there are six fixed shares of the Ashaab ul-Furoodh, which can be divided into two groups:

1<sup>st</sup> Group: **Halves:** One-Half ( $\frac{1}{2}$ ), One-Fourth ( $\frac{1}{4}$ ), One-Eighth ( $\frac{1}{8}$ )

---

2<sup>nd</sup> Group: **Thirds:** Two-Thirds ( $\frac{2}{3}$ ), One-Third ( $\frac{1}{3}$ ), One-Sixth ( $\frac{1}{6}$ )

All "Halves" have one thing in common, which is that they are all a form of half. "One-Half" is already half, "One-Fourth" is the half of One-Half, and "One-Eighth" is the half of One-Fourth. That is why this group is called "Halves".

And the "Thirds" have "one-third" as the common thing among them all. "Two-Thirds" is the double of One-Third, One-Third is already a third, and "One-Sixth" is the half of One-Third.

### Understanding Fractions:

Numbers that represent part of a whole are called "Fractions". For example: One (1) is a whole number. Now if we divide it into two equal parts then we will get two parts of "Half" and "Half".

Now if we want to say that from these two parts we want to take one part, this is written in Fraction as ( $\frac{1}{2}$ ), and it is read as "one over two" (or one-half).

The number below the line represents the total number of equal parts which are separated from the whole number, for example, in the example above, the bottom number is 2 which tells us that the whole number (i.e. one) was divided into two equal parts.

This bottom number tells us the total number of parts a whole is divided into and that they are divided into equal parts, which is why it is called "Denominator".

The number above the line represents the number of parts that we take from the total parts. For example, in the example above, the top number is 1 which tells us that out of the two equal parts of the whole, we take one part.



This top number tells us only the number of parts that we take, i.e. the parts that are counted or numerated, which is why it is called “Numerator”.

In Arabic, these fractions are named as follows:

First Group: Nisfiyaat (نصفيات) i.e. One-Half (nisf) (نصف), One-Fourth (rub') (ربع), One-Eighth (thumun) (ثمن),

Second Group: Thuluthiyaat (ثلثيات) i.e. Two-Thirds (thuluthayn) (ثلثين), One-Third (thuluth) (ثلث), One-Sixth (sodus) (سدس).

### Writing these Shares in Percentage:

First Group: Halves i.e. One-Half (50 %), One-Fourth (25 %), One Eighth (12.5 %),

Second Group: Thirds i.e. Two-Thirds (66.67 %), One-Third (33.33 %), One-Sixth (16.67 %).

### Understanding Percentage:

Assuming an amount to be one hundred and representing a part of that amount is called “Percentage”. [Trans: In other words: parts per hundred. So 50% is 50 parts of a hundred]

The formula to convert a fraction into a percentage is that you add two zeros in front of the numerator [in other words, multiply the numerator with 100]. Then divide that with the denominator, and what you get as a result is the percentage which is represented by adding the % sign at the front. For e.g.:

To convert  $\frac{1}{2}$  into a percentage, multiply the numerator, which is 1, with 100 (you get 100), then divide it by the denominator, which is 2, the result you get is 50 ( $\frac{100}{2} = 50$ ). Now we will write this as 50%.

A detailed discussion on the Ashaab ul-Furoodh along with their evidences will be mentioned later.

## ❖ Second Type: 'Asabah (Residuary)

### Linguistic meaning:

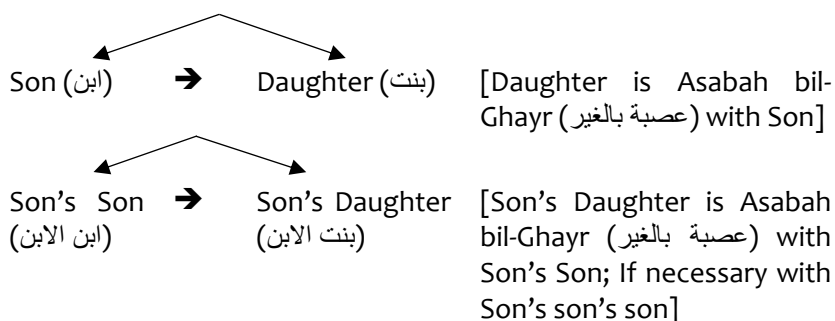
(عصبة) comes from (عصب) and (تعصيب) which means to wrap around or to take sides. Its active participle is (عاصب) and (معصب). 'Asabah can be said both for singular and plural as well as for masculine and feminine.

### Technical Meaning:

Whoever among the heirs have been determined by the Qur'an and Sunnah to be given whatever remains (the residue) of the estate after the Ashaab ul-Furoodh (fixed sharers) are allotted their specified shares, are called the 'Asabah (Residuaryes) – no matter they consist of relatives other than the Ashaab ul-Furoodh or the Ashaab ul-Furoodh themselves.

A complete list of them with respect to their group, level, and order is as follows:

### Sonhood (البنوة): (فروع 'Furoo')

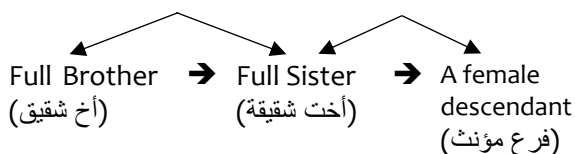


### Fatherhood (الأبوة): (أصول 'Usool)

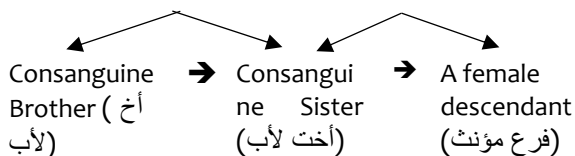
Father (أب)

Father's Father (أبو الأب)

### Siblinghood (الأخوة): (حواشي 'Hawaashi)



[Full Sister is Asabah bil-Ghayr (عصبة بالغير) with Full Brother]  
 [Full Sister can also be Asabah ma' al-Ghayr (عصبة مع الغير) with a female descendant]



[Consanguine Sister is Asabah bil-Ghayr (عصبة بالغير) with Consanguine Brother]  
 [Consanguine Sister can also be Asabah ma' al-Ghayr (عصبة مع الغير) with a female descendant]

Full Brother's Son (ابن الأخ الشقيق)

Consanguine Brother's Son (ابن الأخ لأب)

### Unclehood (العمومة):

Full Uncle (عم شقيق)

Consanguine Uncle (عم لأب)

Son of Full Uncle (ابن العم الشقيق)

Son of Consanguine Uncle (ابن العم لأب)

- ❖ This list contains all of the heirs in order, except six. The only ones excluded from this list are (1) (2) the entire group of

Spouses (i.e. Husband & Wife), (3) (4) All of the females from the Usool group (i.e. Mother & Grandmother), (5) (6) and all of the Uterine Siblings (i.e. Uterine Brother & Uterine Sister). These six heirs are those that always remain Ashaab ul-Furoodh (Fixed Sharers). All of the remaining heirs are those who are entitled to receive the residue or whatever is left of the estate after Ashaab ul-Furoodh are allotted their shares.

- ❖ With respect to their eligibility (for receiving the residue), it is based on the order they are mentioned in this list. This means that if any one of the Asabah mentioned earlier is present or alive, then he will be entitled to receive all of the remaining estate, and those mentioned after him, will not receive anything.

If you can remember just these two rules about the 'Asabah – i.e. (1) their order of eligibility is the order that they are mentioned in the list above, and that (2) according to this list, presence of the earlier mentioned relative will mean that none of the later mentioned relatives will get anything – then there would be no further need for us to discuss 'Asabah, unless they contain heirs from the third or fourth generation which is usually not the case. However, we are going to go on with the discussion so that all aspects are understood.

### **Types of 'Asabah:**

Among the above mentioned 'asabah, there are those who become 'asabah by themselves, and there are those who become 'asabah because of the presence of a particular heir along with them.

Those who become 'asabah due to the presence of another person are further divided into two types. Therefore, the 'asabah are divided into three types, which are as follows:

- **First: 'Asabah bil-Nafs (Residuaries by Themselves) (عصبة بالانفس):**

Residuaries by themselves are only the male agnates (i.e. related by descent from a common male ancestor). So from this we know, the Husband and the Uterine Brother are not included in this (because even though they are males but they're not related through male blood line). All of the rest of the male heirs are counted as 'Asabah bil-Nafs (Residuaries by themselves). That is because the hadeeth of 'Asabah that declares male heirs to be the 'asabah and entitles them to get the residue of the estate applies to all male heirs except the husband and the uterine brother.

The hadeeth of 'Asabah is as follows:

"أَحَقُّوا الْفَرَائِضَ بِأَهْلِهَا، فَمَا بَقِيَ فَهُوَ لِأَوَّلَى رَجُلٍ ذَكَرَ"

"Give the Faraa'id to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased"

[Saheeh Bukhaari (6732)]

This hadeeth mentions two things:

- 1- Whatever wealth remains after the ashaab ul-furoodh are allotted their shares, is to be given to the remaining **male** relative of the deceased.
- 2- And that it is to be given to the **closest male** relative. Due to this second point, if a closer male relative is present, a distant male relative will not get any share.

That is why in the list of 'asabah given above, all male relatives are mentioned in the order of their closeness to the deceased, so that the residue of the estate goes only to the closest male relative, not to a distant male relative. Therefore, the reader should memorize the list of 'Asabah bil-Nafs in the same order that they are mentioned.

[Trans: This means that the male relatives mentioned first are closer to the deceased than those mentioned after, for example, (son) is closer to the deceased than (son's son), similarly, (son) & (son's son) are both closer to the deceased than (father) and so on].

Note that for ease of memorizing the list of heirs, we had formed four ordered groups right in the beginning. It should also be kept in mind that the order of 'asabah with respect to closeness corresponds with the order of groups as well. The rules of knowing the closeness of 'asabah will be mentioned in the next section.

○ **Second: 'Asabah bil-Ghayr (Residuaries by Another) (عصبة بالغير):**

If an Asabah bil-Nafs is present, and along with him he also has a sister from the same level as him <sup>(4)</sup>, then this 'asabah bil-nafs will also make this sister an 'asabah. So such a sister becomes an 'asabah only through her brother, that is why, she is called 'Asabah bil-Ghayr, and these are four women in total:

Two from the Furoo':

- 1- Daughter (بنت) is 'asabah bil-ghayr if present with Son (ابن).
- 2- Son's Daughter (بنت الابن) is 'asabah bil-ghayr if present with Son's Son (ابن الابن). (Sometimes, Son's Daughter can become asabah bil-ghayr with a lower level male such as Son' Son' Son (ابن ابن الابن), when there is a need for it [i.e. when Son's son is not present]).

Two from the Hawaashi:

- 1- Full Sister (أخت شقيقة) is 'asabah bil-ghayr if present with Full Brother (أخ شقيق).
- 2- Consanguine Sister (أخت لأب) is 'asabah bil-ghayr if present with Consanguine Brother (أخ لأب).

The evidence for asabah bil-ghayr of the furoo is the following verse:

4 - If 'asabah bil-nafs is son's son and the 'asabah bil-ghayr along with him is son's daughter, this son's daughter does not necessarily has to be his real sister, as she can also be his first cousin [because of being a daughter from another son of the deceased]. However, she can be called his cousin-sister. Moreover, in case of necessity, when son's daughter (grand-daughter) becomes 'asabah bil-ghayr with son's son's son (great grandson) then too she is not actually his real sister (rather his aunt).

"يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“Allah commands you regarding your children: the share of the male will be twice that of the female”

[Soorat al-Nisaa (4/11)]

The evidence for ‘asabah bil-ghayr of the hawaashi is the following verse:

"وَإِنْ كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“If there are both brothers and sisters, a male’s share will be equal to that of two females”

[Soorat al-Nisaa (4/176)]

- **Third: ‘Asabah ma’ al-Ghayr (Residuarities with Another)**  
(عصبة مع الغير):

When the full sister (أخت شقيقة) or the consanguine sister (أخت لأب) of the deceased is present with a female descendant of the deceased, then the sisters become ‘asabah ma’ al-ghayr.

[Trans: That is when there is no ‘asabah bil-nafs along with the sisters, like Full Brother or Consanguine Brother. In other words, when the sisters themselves are not ‘asabah bil-ghayr].

The evidence for ‘asabah ma’ al-ghayr is the hadeeth of Ibn Mas’ood (radiallah anhu) according to which Allaah’s Apostle (ﷺ) made the sister of the deceased an ‘asabah ma’ al-ghayr with the female descendant of the deceased. It is from this that we got the rule of:

"الأخوات مع البنات عصبة"

“Sisters along with the Daughters are ‘asabah (Residuarities)”.

The hadeeth of Ibn Mas’ood (radiallah anhu) will be mentioned later.

**The Reason behind the Naming of “Asabah bil-Nafs”, “Asabah bil-Ghayr” & “Asabah ma’ al-Ghayr”:**

- ✓ In 'asabah bil-nafs, an heir becomes eligible for the residue of the estate by his own right. No other 'aasib [agnate] or heir causes him to become an 'asabah, rather he himself, on occasions, causes other heirs to become 'asabah. That is why, he is called "Asabah bil-Nafs (Residuary on his own)"
  
- ✓ In 'asabah bil-ghayr, an 'aasib [male agnate / 'asabah bil-nafs] causes another female to become 'asabah along with him (i.e. they share the residue together). That is why such a female is called "Asabah bil-Ghayr (Residuary by another)", meaning: she was not an asabah (residuary) on her own (bil-nafs), but another 'aasib made her his partner in sharing the residue of the estate. For example:  
The son of the deceased is himself an 'aasib and is eligible to get the residue of the estate. Now if along with him, there is also the daughter of the deceased, then this aasib i.e. the son will cause the daughter of the deceased i.e. his sister to become an asabah along with him, and they both will share the residue of the estate together.
  
- ✓ In 'asabah ma' al-ghayr, no 'aasib (male residuary) causes another female to become 'asabah, nor makes her a partner in any share he gets, rather a female becomes an 'asabah (eligible for the residue) because of being present with a sahib fardh (fixed sharer), and the sahib fardh (fixed sharer) gets her fixed share separately. So a female (sister of the deceased) becomes an asabah just because of her togetherness (ma'iyyah) with a sahib fardh (a female descendant). That is why she is called "Asabah ma' al-ghayr"

### **The Rule of Knowing the Closeness of 'Asabah:**

There are three things that determine the closeness of 'asabah with the deceased:



- 1- **Group (جهة)** – meaning: with respect to the category of relationship, and these are four in the following order:

Sonhood (بنوة), Fatherhood (ابوة), Brotherhood (أخوة), and Unclehood (عمومة).

In these four categories, an individual from the first category is a closer relative than an individual from the second category. This is the order that the Qur'an has maintained with regard to the blood relatives i.e. Sonhood, Fatherhood, and Brotherhood. And as for the category of Unclehood, this comes under the hadeeth of 'Asabah which is more distant than the three aforementioned groups.

It should be noted that this order of the groups of relationships is in accordance with the ordered list of heirs.

- 2- **Level (درجة)** – this is with regard to the generation and descent of a person, for example: son's son is more distant than son. It should be noted that in the ordered list of heirs mentioned earlier, the level of a relative is also taken under consideration.

- 3- **Strength (قوة)** – this is with respect to the strength of a relationship i.e. with respect to the sharing or not sharing of the parents, for example: a Full Brother (أخ شقيق) is closer to the deceased with respect to both the father and the mother (i.e. double association), whereas a Consanguine Brother (أخ لأب) is only close with respect to the father of the deceased (i.e. single association) while their mothers are separate. So the relationship of a consanguine brother is, therefore, more distant (than the full brother).

It should be noted that in the ordered list of heirs mentioned earlier, the strength of a relationship is also taken under consideration, this means that, a relative with common parents is mentioned before a relative with different parents.

In light of this detail, in order to know who the closest relative is, when there are more than one 'asabah, the rule is:

- ❖ To first look at the group or category of a relation. So if one heir is from the first category of Sonhood, for example: a son, and the other heir is from the other category of Brotherhood, for example: a full brother, then the relative from the Sonhood category will be the closer relative.
- ❖ If both of them share the same category, for example: one heir is the son, and the second heir is son's son, then both of them share the category of Sonhood. Therefore, we will look at their "Level" of relationship. So we know, son is closer in "Level" while Son's Son is distant in level. Therefore, son will be given preference.
- ❖ If both of them share the same category as well as the same level, for example: one heir is full brother, and the other heir is consanguine brother, then they both are from the same category of Brotherhood, and from the same level. Therefore, here we will look at the strength of the relationship i.e. with respect to the sharing or not of the parents. In this regard, we will give preference to the full brother because he is related to the deceased from both the parents' side i.e. through double association, whereas the consanguine brother is only related to the deceased through one association.

It should be noted that among "Full Brother's son's son (ابن ابن (الأخ ش))" and "Consanguine Brother's Son (ابن الأخ لأب)", the preference is given to the consanguine brother's son (ابن الأخ لأب), because they both are from the same category of Brotherhood, but with respect to the "Level", Consanguine Brother's son is closer to the deceased. The same goes for "Full Uncle's son's son (ابن ابن العم ش))" and "Consanguine Uncle's son (ابن العم لأب)". This issue of the third generation is contrary to the ordered list of 'asabah mentioned earlier with respect to eligibility. However, it does not usually come to this in real world cases.

If more than one ‘asabah share the same group, level and strength then the residue of the estate will be distributed among them all, for example: Two Sons.

## The Shares of ‘Asabah:

- ✓ Among the ‘Asabah bil-Nafs, if there is only one heir in one level, then all of the rest of the estate goes to him. And if they are more than one, then it gets equally divided among them all.
- ✓ If along with ‘Asabah bil-Nafs, there also exist females as ‘Asabah bil-Ghayr then the rest of the estate will be divided among them based on the verse: {لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ} {for a male there is a share equal to that of two females} (4:11).
- ✓ ‘Asabah ma’ al-Ghayr will get the rest of the estate after fixed sharers get their allotted share.
- ✓ If all of the wealth gets spent among the Ashaab ul-Furoodh (Fixed Sharers), then the ‘Asabah do not get anything (Trans: because there is nothing remaining to be given to ‘Asabah).

**Note:** When the more distant ‘asabah do not get any share because of the presence of a closer ‘asabah, this is called “Hajab” (i.e. Blockage), which will be discussed later.

## Benefits:

- 1- In ‘Asabah bil-Nafs category, no matter how far the generation goes through the continuity of the male agnate, they all will be considered the ‘asabah, and they will become the eligible heirs of the deceased in case a more closer ‘asabah is not available.
- 2- The ‘Asabah bil-Nafs category contains only the male heirs, while the other two categories of ‘asabah consist only of the female.
- 3- In the case of ‘Asabah bil-Ghayr, all females are usually the sisters of their corresponding ‘Asabah bil-Nafs. However, sometimes they are not their real sisters but their cousin-sisters <sup>(5)</sup>.

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5 - In addition, sometimes Son's Daughter from the Furoo category can become ‘asabah bil-ghayr with a male agnate lower in level than her if need

- 4- In 'asabah ma' al-ghayr, all females are only the sisters of the deceased.

### **An Extinct Type of 'Asabah – ('Asabah Sababiyyah i.e. Residuary by Special Reason):**

There used to be slaves in the previous eras. If a slave remained in slavery until he died, then he would not have any belongings of his own, rather all of his belongings would go back to his master.

However, if a slave was emancipated by his master, anything he earned and acquired after his freedom belonged to him alone.

If a manumitted slave acquired some wealth after his freedom and died without leaving any relatives, or perhaps the relatives he did leave behind are not those eligible to become 'asabah, then the manumitter or master of such a slave (Mawla al-'Itaq) will become entitled to the residue ('asabah) of his wealth.

be. The meaning of need here is that son's daughter is in a situation where she is neither getting a share from the fardh (fixed share) category, nor does she have a pairing son's son to make her 'asabah along with him (i.e. her brother or first cousin). This means, she is neither getting a share from the fardh category nor from the 'asabah category. In such a situation, if there is a son from a lower level than her [such as (son's son's son) or (son's son's son's son) and so on] then he will be able to make this son's daughter an 'asabah along with him. That is because if great grandson (son's son's son) can cause his corresponding great grand-daughter (son's son's daughter) to become an 'asabah along with him, then he can make the grand-daughter higher in level than him his 'asabah even more preferably.

However, it should be kept in mind that if son's daughter is getting a share from the fardh category or if she has a corresponding son's son from the same level as her who can make her his 'asabah and in this case there also exists a great grandson lower in level than her, then she (son's daughter) will not become 'asabah with this great grandson, because she is getting a share on her own, or her brother from her level himself is making her his 'asabah, therefore she does not need an 'aasib from a lower level. In fact, if son's daughter has a corresponding son's son with her as an 'aasib, then the great grandson from the lower level will become mahjoob (blocked) and he will not remain an 'asabah himself let alone cause another female to become 'asabah.

[Trans: In our present day and age where slavery has been abolished worldwide, this law is of historical importance only].

### ❖ **Third Type: Dhawul-Arhaam (Distant Kindred or 3rd Tier Relatives):**

Arhaam is the plural of rahim which refers to “relatives”.

[Translator's notes:

- ❖ The Arabic term Dhawul-Arhaam means “possessors of kinship” and the term distant kindred is used to refer to this class of heirs; also referred to as uterine heirs.
- ❖ The term distant kindred is somewhat misleading suggesting that the relationship to the deceased is distant, this is not necessarily so, e.g. the daughter's daughter, who is, in common circumstances nearer to the deceased, likewise the daughter's son. There is no ideally suitable term in English for the Dhawul-Arhaam, the term distant kindred is used by most authors.

(See: Islamic Law of Succession by Dr. A. Hussain, p. 85, 86)]

In terms of inheritance, Dhawul-Arhaam refer to all those relatives of the deceased who are neither fixed sharers (Ashaab ul-Furoodh) nor Residuaries ('Asabah).

#### **Benefit:**

The relatives of the deceased who are related to him/her through a female are usually counted among the dhawul-arhaam in terms of inheritance [Trans: for example: daughter's children, mother's siblings, sister's children].

However, this is not the rule in absolute terms. That is because there are some relatives who are related through a female but come under ashaab ul-furoodh like maternal grandmother and uterine siblings; while some relatives are related through a male but come under

dhawul-arhaam like full aunt (father's full sister) and consanguine aunt (father's consanguine sister).

We will not discuss Dhawul-Arhaam here because it is very rare that it comes to a situation where they have to be given a share. However, a short discussion on them will be added at the end of the book.

## CHAPTER THREE: HAJAB (BLOCKING)

Hajab means to block.

In the terminology of Faraa'idh, when an heir prevents another person from getting a share, it is called Hajab. The one who blocks is called the “Haajib (حاجب) (i.e. Blocker)” and the one who is blocked is called “Mahjoob (محجوب)”.

In order to ease the memorization and understanding of the conditions for giving shares to the Ashaab ul-Furoodh and the 'Asabah, this discussion of hajab will prove helpful. And the discussion of Hajab can be learned in as little words as possible in the form of some rules or principles.

It is important to understand these rules in light of their evidences, so that they are absorbed well in the mind. Even if you are unable to understand the evidences at this point, it is still enough for you to memorize the rules. If these rules are learned well, then there will not remain any further need to learn anything else in the topic of Hajab.

### Frequently Used Rule:

The entire group of Hawaashi (Siblings & Uncles) will be mahjoob (i.e. blocked from getting a share in inheritance) if there is any male from the Furoo' or Usool group available.

### Rules concerning Furoo':

#### Rule # 1:

A male from the furoo' group will block all males and females in the furoo' group that are more distant than him, apart from blocking all the Hawaashi.

#### Rule # 2:

A female from the furoo' group will only block the uterine siblings from the hawaashi group.

## Rules concerning Usool:

### Rule # 3:

A male from the Usool group will block all male members of the Usool group more distant than him, apart from blocking all of the hawaashi.

### Rule # 4:

A female from the Usool group will block all females of the Usool group more distant than her.

## Rules concerning Hawaashi:

### Rule # 5:

A male from the hawaashi group will block all males and females of the hawaashi group that are more distant than him, except for uterine siblings. No one from the hawaashi group can block a uterine sibling, nor can a uterine sibling block anyone from the hawaashi group.

### Rule # 6:

No female from the hawaashi group can block anyone, however:

- ❖ When a full sister (أخت شقيقة) becomes 'asabah ma' al-ghayr due to the presence of a female descendant [Trans: like daughter or son's daughter], then she stands at the rank of a full brother; therefore, anyone who is usually blocked by a full brother will also be blocked by her.
- ❖ When a consanguine sister (أخت لأب) becomes 'asabah ma' al-ghayr due to the presence of a female descendant [Trans: like daughter or son's daughter] [Trans: as well as the absence of a full sister], then she stands at the rank of a consanguine brother; therefore, anyone who is usually blocked by a consanguine brother will also be blocked by her.

Actually, in the case of being 'asabah ma' al-ghayr, a full sister and a consanguine sister become eligible to receive the residue of the estate just like their respective brother, therefore, there is nothing



left for the more distant relatives among the hawaashi to get a share. That is why, they all are blocked (محجوب).

### Note:

A relative that is related to the deceased directly i.e. without any connecting node, will never be blocked in any condition. These relatives are as follows:

Spouses (Husband and Wife), Children (Son and Daughter), Parents (Father and Mother). These six relatives are never blocked from getting a share in inheritance.

## The Evidences of all the Rules mentioned above:

If the above mentioned rules are memorized properly then it is not necessary to memorize the evidences of Hajab. However, if you understand the evidences then you will never forget these rules of hajab. Even if you do forget them, it will still be easier for you to know them in light of the evidences. Therefore, the evidences of these rules are given below:

There are three fundamental evidences of hajab: (1) The principle of Connection, (2) The principle of Residuary, and (3) The principle of Kalaalah.

### 1- The Principle of Connection (أصول واسطة)

Anyone who is related to the deceased in connection with someone else, he will become mahjoob (blocked) when that connecting node or relative is present. For example, “Son’s Son” is related to the deceased in connection with the “Son”. Therefore, the presence of “Son” will cause “Son’s Son” to be blocked. Here, the original share (in inheritance) belongs to the connecting relative himself, but due to his absence, it goes to the more distant relative under a general rule. Therefore, the presence of the original sharer will cause all other distant relatives to be blocked.

Uterine siblings (إخوة لأم) and Paternal Grandmother (جدة لأب) are excluded from this principle because the uterine siblings are related

in connection with the mother, but they still get a share despite the presence of the mother. Similarly, paternal grandmother is related in connection with the father, but she still gets a share despite the presence of the father. The reason for these exceptions are their separate evidences, like the verse of kalaalah (see page # 105) and the hadeeth of grandmother (see page # 100).

Moreover, these relatives do not get the share of their connecting relatives, rather their share is separate from them. That is why they get a share despite the presence of their connecting relative <sup>(6)</sup>.

## 2- The Principle of Residuary (أصول عصبية)

The hadeeth of 'Asabah has declared the closest 'aasib (residuary) to be eligible to get the residue of the estate. Therefore, a closer aasib among the 'asabah bil-nafs (residuary by themselves) would block a more distant aasib (see page # 44). <sup>(7)</sup>

### 6 - In light of this principle:

- ❖ A male from the furoo' will block all males and females from the furoo more distant than him.
- ❖ A male from the Usool will block all male relatives from the Usool more distant than him. Additionally, he will also block all the non-uterine siblings, based on this principle.
- ❖ A female from the Usool will block a more distant female from the Usool. (A grandmother gets the share of the mother, therefore, mother is the connecting relative for her). Moreover, the hadeeth of grandmother is also a separate evidence for this.

### 7 - Based on this principle:

- ❖ All males from the furoo' and Usool category would block all more distant males of their respective categories. And they also would block all hawaashi other than the uterine siblings, based on this principle.
- ❖ Since a full brother (أخ شقيق) blocks a consanguine brother (أخ لأب), he therefore, would also block a consanguine sister (أخت لأب) by an even greater degree.
- ❖ When a full sister (أخت شقيقة) becomes 'asabah ma' al-ghayr, she stands at the same position as a full brother (أخ شقيق). Therefore, just like a full brother, she would also block all of the more distant relatives of the hawaashi category.

### 3- The Principle of Kalaalah (أصول كلاله)

The verses of kalaalah and their explanation will be mentioned later. (See page # 105-110).

For now, just keep in mind that a female descendant blocks all the uterine siblings (إخوة لأم) based on the principle of kalaalah itself <sup>(8)</sup>.

If these principles can be exercised with examples right here and now, it will be better. However, these principles will also be exercised implicitly later on under the discussion of the shares of heirs.

- 
- ❖ Similarly, when a consanguine sister (أخت لأب) becomes 'asabah ma' al-ghayr, she stands at the same position as a consanguine brother (أخ لأب). Therefore, just like a consanguine brother, she would also block all of the more distant relatives of the hawaashi category (see page 55).

#### 8 - Therefore:

- ❖ The males of the furoo and Usool category block the entire group of siblings based on the principle of kalaalah.
- ❖ A female descendant blocks the uterine siblings based on the principle of kalaalah, however, a female descendant, does not block non-uterine siblings based on the hadeeth of 'asabah (p. 44) and the hadeeth of Ibn Mas'ood (radiallah anhu) (p 81).

## PART TWO: SHARES OF HEIRS

If the heirs are from the 'asabah (Residuaries), the method of giving them the share has already been explained above. Now we will talk about the shares of the ashaab ul-furoodh (fixed sharers). If you can keep the details pertaining to the topic of 'asabah in your mind while we discuss the shares of ashaab ul-furoodh, it will be very easy for you to understand the topic. That is why the discussion of the 'asabah was mentioned first. Now let's try to understand the shares of ashaab ul-furoodh while keeping that in mind.

Please note that (in this book), all cases/situations in which a sahib fardh (fixed sharer) would get a share are mentioned. And these cases are mentioned in such an order that a case mentioned earlier would assume that none of the later mentioned cases are true (or exist); and a case mentioned later would assume that none of the earlier mentioned cases hold true (or exist).

[Trans: In other words, each mentioned case calculates the share of a given heir based on the information within the case itself, and none of the situations or information found in other cases would apply to this case as all cases are independent of each other. Moreover, the information in each case is all there is, and nothing will be presumed by the reader].

Each case is first mentioned in a table in a concise manner with just a word or two. After that, a short explanation is mentioned. And after the table, each case is explained with details.

(Note) When you are trying to calculate the shares of heirs, always try to list all of the heirs and their groups with their order. This means that first list the spouses, then the furoo', then the Usool, and lastly the hawaashi. You should also list those blocked (mahjoob) heirs who, though, do not get any share at times, but their presence can still affect the shares of some other heirs. This will be explained with examples later in its appropriate place (see page # 96-97).

Now let's learn about the shares belonging to the heirs of each group in order.

## CHAPTER ONE: SHARES OF SPOUSES

Understanding the shares of the spouses is very easy. Just remember the fact that if the deceased has any children then: in case of a wife, she will get one-eighth, and in case of a husband, he will get double the amount i.e. one-fourth.

And if the deceased does not have any children then: in case of a wife, she will get one-fourth, and in case of a husband, he will get double the amount i.e. one-half.

### THE SHARE OF A HUSBAND (زوج)

Cases:

1- <b>One-Fourth</b> (1/4)	<b>Child exists</b>	When a male or female descendant exists (i.e. The deceased has a child).
2- <b>One-Half</b> (1/2)	<b>No Child</b>	When a male or female descendant does not exist (i.e. The deceased is childless).

### Explanation:

The husband gets a share in inheritance as a sahib ul-fardh (fixed sharer), and there are two cases in that.

#### ➤ First Case:

The husband (زوج) will get one-fourth (1/4) from the estate of his deceased wife if his wife has any children, no matter the child is from the same husband or from a previous husband. In other words, the deceased (wife) has a male or female descendant.

### Evidence:

"فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكْنَ"

“But, if they have a child, you get one-fourth of what they leave”

[al-Nisaa (4:12)]

### Examples:

Husband	$\frac{1}{4}$
Son	Residue
Daughter	

Husband	$\frac{1}{4}$
Son	Residue
Uncle	X

### ➤ Second Case:

The husband (زوج) will get one-half ( $\frac{1}{2}$ ) from the estate of his deceased wife if his wife had no children, no matter from the same husband or from a previous husband. In other words, the deceased (wife) has no male or female descendant.

### Evidence:

"وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ"

“For you there is one-half of what your wives leave behind, in case they have no child”

[al-Nisaa (4:12)]

### Examples:

Husband	$\frac{1}{2}$
F Brother	Residue
F Sister	

Husband	$\frac{1}{2}$
Father	Residue
U Brother	X

Husband	$\frac{1}{2}$
F Brother	Residue
C Sister	X

**[Translator's note:**

From here on, we will use shortcuts to refer to certain relationships to save space in the tables. The shortcuts are as follows:

- ❖ F = Full, like in “F Brother” or Full Brother (أخ شقيق).
- ❖ C = Consanguine, like in “C Brother” or Consanguine Brother (أخ لأب).
- ❖ U = Uterine, like in “U Brother” or Uterine Brother (أخ لأم).

## THE SHARE OF A WIFE (زوجة)

Cases:

1- <b>One-Eighth</b> (1/8)	<b>Child Exists</b>	When a male or female descendant exists (i.e. The deceased has a child).
2- <b>One-Fourth</b> (1/4)	<b>No Child</b>	When a male or female descendant does not exist (i.e. The deceased is childless).

### Explanation:

The wife gets a share in inheritance as a fixed sharer, and there are two cases in that.

#### ➤ First Case:

The wife (زوجة) will get one-eighth (1/8) from the estate of her deceased husband if her husband has any children, no matter the child is from the same wife or from a different wife. In other words, the deceased (husband) has a male or female descendant.

### Evidence:

"فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكْتُمْ"

“But, if you have a child, they get one eighth of what you leave”

[al-Nisaa (4:12)]

### Examples:



Wife	$\frac{1}{8}$
Son	Residue
Daughter	

Wife	$\frac{1}{8}$
Son	Residue
F Brother	X

### ➤ **Second Case:**

The wife (زوجة) will get one-fourth ( $\frac{1}{4}$ ) from the estate of her deceased husband if her husband had no children, no matter from the same wife or from a different wife. In other words, the deceased (husband) has no male or female descendant.

#### **Evidence:**

"وَهُنَّ الرُّبُعُ مِمَّا تَرَكْتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ"

“For them (the wives) there is one-fourth of what you leave behind, in case you have no child”

[al-Nisaa (4:12)]

#### **Examples:**

Wife	$\frac{1}{4}$
F Brother	Residue
F Sister	

Wife	$\frac{1}{4}$
Father	Residue
U Brother	X

Wife	$\frac{1}{4}$
F Brother	Residue
C Sister	X

#### **Exercise:**

It is your turn now to come up with different examples for the husband and wife and try to solve them. We have not yet discussed the share of the daughter when she inherits as a fixed sharer, therefore, try to come up with only the examples in which she inherits as an ‘asabah [Trans: like when she inherits along with her brother as ‘asabah bil-ghayr and so on].

## CHAPTER TWO: SHARES OF CHILDREN (فروع)

All males in the category of furoo' or children [Trans: i.e. Son, Son's son] come under 'asabah, and the details of giving shares to the 'asabah has passed before. All females in the category of furoo' (Daughter, Son's Daughter) are among the ashaab ul-furoodh (fixed sharers) <sup>(9)</sup>. The details of their shares is given below.

### THE SHARE OF A DAUGHTER (بنت)

Cases:

1- 'Asabah bil-Ghayr	'Aasib exists	'Aasib i.e. the son of the deceased exists.
2- Two-Thirds (2/3)	Plural	'Aasib doesn't exist; and daughters are multiple (i.e. the deceased has daughters only and they are more than one)
3- One-Half (1/2)	Singular	'Aasib doesn't exist; and the daughter is singular (i.e. deceased has only one daughter)

#### Explanation:

A daughter (بنت) inherits in two aspects:

First: As 'asabah bil-ghayr, which has only one case.

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9 - These females can also come under the 'asabah category as we have discussed before, but here we are discussing about them as being ashaab ul-furoodh.

Second: As a fixed sharer (صاحبة الفرض), which has two cases.

So in total, there are three cases.

### ➤ **First Case: 'Asabah bil-Ghayr:**

This means that based on the principle of:

"لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“The share of the male will be twice that of the female.”

[After giving fixed sharers their shares], whatever is left of the estate will be divided among the sons and daughters in such a way that the share received by a son will be twice that of the share received by a female.

### **The Condition for inheriting as a Residuary with Another (عصبة بالغير):**

In order for the daughter to acquire this share [Trans: i.e. as an 'asabah instead of receiving a fixed share as a fixed sharer (صاحبة الفرض)], there is only one condition, and that is that along with the daughter, there must exist her 'aasib i.e. a male descendant heir (son) of the deceased. In this case, no matter the daughter is only one or multiple, similarly, no matter the son is one or multiple, in any case, the son will make the daughter an 'asabah (Residuary).

### **Evidence:**

"يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“Allaah commands you regarding your children: the share of the male will be twice that of the female”

[al-Nisaa (4:11)]

### **Example:**

		4
Husband	$\frac{1}{4}$	1
Son	Residue	2
Daughter		1

### ➤ **Second Case: Two-Thirds (2/3):**

Two-Thirds (ثُلُثَيْنِ) is the largest fixed share that is given to the daughters' group. (Therefore, if one generation of daughters [i.e. direct daughters] has received this fixed share, then the daughters in the later generations [i.e. son's daughters] would not get anything as part of a fixed share. However, they can receive a share by being 'asabah bil-ghayr).

#### **The condition for receiving Two-Thirds:**

There are two conditions for the daughter to receive two-thirds.

First is that there is no 'aasib of the daughter. This means, there does not exist a male descendant heir (son) of the deceased.

Second condition is that the daughters are more than one in number.

#### **Evidence:**

" فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ "

“But, if they are (only) women, two or more, then they get two-thirds of what one leaves behind”

[al-Nisaa (4:11)]

The meaning of “more than two” is not that the minimum number of daughters has to be three, rather the meaning here is “two or more than two” as it has been explained from a hadeeth. [In one hadeeth],

the Prophet of Allaah (ﷺ) gave two-thirds of the estate to only two daughters in case of no son. [Sunan Tirmidhi: 2092, Grade: Hasan].

### Example:

Wife	$\frac{1}{8}$
2 Daughters	$\frac{2}{3}$
F Brother	Residue

### ➤ Third Case: One-Half (1/2):

#### The condition for receiving one-half:

There are two conditions for a daughter to receive one-half of the estate.

First is that there is no 'aasib of the daughter. This means, there does not exist a male descendant heir (son) of the deceased.

Second condition is that the daughter is singular. (This means, she is alone in her generation; existence of a daughter in a lower generation i.e. grand-daughter, does not matter).

Both of the above conditions can be expressed in one sentence as: if the deceased has only a single daughter, she will get one-half.

#### Evidence:

"وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ"

“But if there is only one female, her share will be one-half”

[al-Nisaa (4:11)]

### Example:

Husband	$\frac{1}{4}$
Daughter	$\frac{1}{2}$
F Uncle	Residue

## Exercises:

- 1- Husband (زوج), Son (ابن), Daughter (بنت)
- 2- Husband (زوج), Daughter (بنت), F Brother (أخ ش)
- 3- Wife (زوجة), 2-Daughters (بنات/٢), Son (ابن), F Brother (أخ ش)
- 4- Daughter (بنت), 2-Sons (ابن/٢), F Brothers' Son (ابن الأخ ش), F Uncle's Son (ابن العم ش)
- 5- 3-Daughters (بنات/٣), 2-Sons (ابن/٢), F Uncle's Son (ابن العم ش), F Uncle (عم شقيق)
- 6- Daughter (بنت), U Brother (أخ لأم), U Sister (أخت لأم), F Uncle (عم ش), C Uncle (عم لأب)
- 7- F Brother (أخ ش), Daughter (بنت), F Sister (أخت ش), Brother's son (ابن العم ش), F Uncle's son (ابن العم ش)
- 8- 2-F Brothers (أخ/٢ ش), Daughter (بنت), C Brother (أخ لأب), C Sister (أخت لأب), C Uncle's son (ابن العم لأب)

## THE SHARE OF SON'S DAUGHTER (بنت الإبن)

Cases:

1- <b>Mahjoob (Blocked)</b>	<b>Blocker Exists</b>	<ul style="list-style-type: none"> <li>❖ A male descendant heir from an upper generation [i.e. son] exists, OR</li> <li>❖ The entire two-thirds is spent on the daughters of upper generation [i.e. direct daughters], AND there does not exist an 'aasib for the son's daughter.</li> </ul>
2- <b>'Asabah bil-Ghayr</b>	<b>'Aasib exists</b>	None of the above cases are true AND an 'Aasib exists (i.e. "son's son" or a grandson from a lower generation exists and son's daughter is in need of him [in order to become 'asabah]).
3- <b>One-Sixth (1/6)</b>	<b>One-Half receiving (single) daughter exists</b>	None of the above cases are true (No blocker and no Aasib exist) AND a daughter receiving one-half exists.
4- <b>Two-Thirds (2/3)</b>	<b>Plural</b>	None of the above cases are true (No blocker, no Aasib, and no half receiving daughter exist) and son's daughters are more than one in number
5- <b>One-Half (1/2)</b>	<b>Singular</b>	None of the above cases are true (No blocker, no Aasib, and no half receiving daughter exist), and son's daughter is only one in number.

## Explanation:

The share of son's daughter (بنت الابن) is same like the daughter. This means, the three cases that are applicable to the daughter are also applicable to the son's daughter. However, son's daughter has two additional cases.

**The First Additional Case** is that she does not get anything. This happens due to two reasons. **First reason** is if the deceased person's male descendant from an upper generation is present, then son's daughter will be blocked (and get nothing). **The Second reason** is that if the entire two-thirds assigned to the daughter category [i.e. daughters, son's daughters] gets spent on the daughters of an upper level and the son's daughter has no 'aasib to make her an 'asabah, then there is nothing left from the two-thirds of the fixed share category for son's daughter to get. That is why the son's daughter of a lower level does not get any share from the fixed share category and gets blocked.

**The Second Additional Case** is that if there exists a daughter (بنت) who is receiving one-half from the fixed share category [due to being only one in number], then after giving her one-half, there still remains one-sixth from the two-thirds assignable to the daughters category, so she gets that [remaining] one-sixth [making the total: two-thirds].

$$[\text{Trans: } \frac{2}{3} - \frac{1}{2} = \frac{1}{6}]$$

Like this, there are a total of five cases for son's daughter. Their details are as follows:

### ➤ First Case: Blocked (محجوب):

Those who block the son's daughter from getting a share are of two types:

- 1) Those who disqualify her from being eligible at all
- 2) Those who deprive her from getting anything [because there is nothing left to give].

## First:



If the deceased's male descendant from an upper level exists, then son's daughter no longer remains eligible for a share, and she gets blocked (محجوب) from the root.

### Evidence:

Look at the Principle of Connection (أصول واسطة) which we discussed earlier in the chapter of Hajab (Blocking).

### Example:

Husband	$\frac{1}{4}$
Son	Residue
Son's daughter	X

### Second:

When the entire two-thirds is spent on the daughters of upper level (i.e. daughters or son's daughters of an upper level) and there is no 'aasib available to make son's daughter an 'asabah, then the entire two-thirds assignable to the daughters category is spent on those daughters themselves, that is why there is nothing left for a granddaughter of a lower level to get anything from the fixed share category; and because of there being no 'aasib, she does not even get anything as a residue (ta'seeban). In other words, she does not get anything from the fixed share category or the 'asabah (residuary) category.

### Evidence:

The maximum share assignable to the daughters (بنات) category (two-thirds) is spent on the daughters of upper level, therefore there is nothing left for her to get from the fixed share category. Moreover, she does not also have anyone to make her an 'asabah (Residuary), so she does not even get anything from the 'asabah category.

Since there is no chance for the daughters (بنات) of a lower level to get anything from the fixed share category, those heirs who cause such a situation are termed as the blockers.

### Example:

2-Daughters	$\frac{2}{3}$
Son's daughter	X
F Brother	Residue

### ➤ Second Case: 'Asabah bil-Ghayr (عصبة بالغير):

Among the four [types of] women who become 'asabah bil-ghayr, i.e. become eligible to receive the residue of the estate based on the principle of {the share of the male will be twice that of the female} due to being accompanied by their brothers, the second [type of] woman from them is a son's daughter, as it has been discussed under the discussion of 'asabah.

### The Conditions for receiving a share as 'asabah bil-ghayr:

The conditions for a son's daughter to get a share as 'asabah bil-ghayr are the following:

- 1) A blocker does not exist
- 2) An 'aasib exists

The 'aasib of a son's daughter (بنت الابن) is son's son (ابن الابن). Alternatively, if a son's daughter is not able to get a share in fixed share category (Fardh) because of the two-thirds being spent on the upper levels, [and there is no son's son available in her own level], then in this case of necessity, a son further down the level such as son's son's son (ابن ابن الابن) can become her 'aasib. Hence, existence of any such 'aasib is necessary for a son's daughter to get a share as 'asabah bil-ghayr.

**Evidence:**

The evidence here is the same as it is for the daughters, because a son's daughter is included in the generality of the verse.

**Example:**

		4
Husband	$\frac{1}{4}$	1
Son's son	Residue	2
Son's daughter		1

A granddaughter (son's daughter) can become 'asabah with a grandson lower in level than her (i.e. great grandson) because a great grandson can cause a great grand-daughter in his own level (who is lower in level than the grand-daughter) to become 'asabah with him. That is why, a great grandson can make a grand-daughter an 'asabah with him by an even greater degree.

It should be kept in mind that a grand-daughter can become 'asabah with a great grandson only when she is in need for it. And this can only happen when the entire two-thirds is spent on the daughters of upper level, and now since there is nothing left for the grand-daughter to get anything from the fixed share category, but she is able to become an 'asabah, therefore, she can now become an 'asabah even if there is a grandson lower in level than her who can make her an 'asabah.

**Example:**

2-Daughters	$\frac{2}{3}$
Son's daughter	Residue
Son's son's son	

Both the daughters will get two-thirds, and son's daughter will become 'asabah with a grandson lower in level than her i.e. son's son's son (great grandson), so both of them will get the residue of the estate based on the principle of: {the share of the male will be twice that of the female}.

However, if the entire two-thirds is not spent on the daughters of upper level then in this case son's daughter remains in the position of getting a share from the fixed share category (Fardh). Therefore, in such a situation, she is no longer in need of becoming an 'asabah with a grandson lower in level than her.

For example, a man died and left behind among his heirs: a son's daughter (بنت الإبن), and a son's son's son (ابن ابن الإبن), then:

Son's Daughter	$\frac{1}{2}$
Son's son's son	Residue

In this case, the son's daughter is not in need of becoming an 'asabah with a grandson lower in level than her, because now she is eligible to get a share from the fixed share category herself. Therefore, she will get one-half as her fixed share, and the remaining estate will go to son's son's son.

Similarly, if a man died and left behind among his heirs: a daughter (بنت), a son's daughter (بنت الإبن), and son's son's son (ابن ابن الإبن), then:

Daughter	$\frac{1}{2}$
Son's daughter	$\frac{1}{6}$
Son's son's son	Residue

In this case, the daughter will get one-half, and son's daughter will get one-sixth from the fixed share category (fardh), which will be discussed next. So, in this case also, the son's daughter is not in need of becoming an 'asabah, because she is getting one-sixth as part of a fixed share, so she will get that and the remaining will go to the great grandson, i.e. son's son's son.

The gist of the matter is that in normal conditions, a son's daughter will only become 'asabah bil-ghayr with a grandson of the same level as her [i.e. son's son], but when the daughters of upper level end up getting the entire two-thirds of the fixed share and son's daughter has nothing left for her to get from the fixed share category, then in such a situation, she can become an 'asabah with a grandson lower in level than her [i.e. son's son's son].

### **The Beneficial and Detrimental Relatives (القريب المبارك والقريب الضار):**

When a son's daughter becomes 'asabah bil-ghayr with a grandson lower in level than her, then such a great grandson is called "Al-Qareeb ul-Mubaarak (The Beneficial Relative)" because in this case, if he was not available, then son's daughter would not have gotten anything, as we discussed above (page 73).

And sometimes a grandson can also prove to be detrimental for a grand-daughter, because he can cause a grand-daughter to not get anything. For example: a woman died and left behind as her heirs: a husband (زوج), a daughter (بنت), a son's daughter (بنت الإبن), a father (أب) and a mother (أم), so:

Heirs	Share	12 Awl 15
Husband	$\frac{1}{4}$	3
Daughter	$\frac{1}{2}$	6
Son's Daughter	$\frac{1}{6}$	2
Father	$\frac{1}{6}$	2
Mother	$\frac{1}{6}$	2

In this case, son's daughter will get one-sixth in order to complete the two-thirds. But if among these heirs, there also existed a son's son, then son's daughter will be deprived of getting the one-sixth:

Heirs	Share	12 Awl 13
Husband	$\frac{1}{4}$	3
Daughter	$\frac{1}{2}$	6
Son's Daughter	Residue	0
Son's Son		
Father	$\frac{1}{6}$	2
Mother	$\frac{1}{6}$	2

That is because now she will have to become 'asabah bil-ghayr with the son's son, and she will have to get only what remains of the estate [after being distributed among the fixed sharers]. However, in this case, there is nothing that remains behind, so son's son will not only be deprived of getting a share, he will also deprive son's daughter from getting anything. Therefore, son's son proved to be detrimental to son's daughter.

### **Grand-Daughter and Great Grand-Daughter becoming 'Asabah bil-Ghayr together:**

A person dies and leave behind among his heirs: two daughters, one grand-daughter [son's daughter], one great grandson [son's son's son], and one great grand-daughter [son's son's daughter].

2-Daughters	$\frac{2}{3}$
Son's daughter	Residue
Son's son's son	
Son's son's daughter	

Both the daughters will get two-thirds. Since the entire two-thirds is spent on both the daughters, there is nothing left for the distant daughters to get anything from the fixed share category. However, in this example, we have the great grandson [son's son's son] who is an 'asabah and is also making his sister, great grand-daughter [son's son's daughter] an 'asabah with him. But because we also have son's daughter one level up of the great grand-daughter, so she will become 'asabah as well.

**Note:** A grand-daughter can become 'asabah with any grandson of the deceased, no matter the grandson is her full brother, step brother

or cousin brother [i.e. having the deceased as their common grandfather].

### ➤ Third Case: One-Sixth (1/6):

In case of plurality of the daughters (بنات) (of the deceased), the Qur'an has specified "Two-Thirds" as their fixed share (Fardh). Therefore, if the daughter (بنت) above the level of son's daughter (بنت الابن) gets one-half from the fixed share (Fardh), then out of the two-thirds associated with multiple daughters, only three one-sixths were given to the daughter, and one one-sixth still remains behind from the fixed share category. So that remaining one-sixth will be given to the distant son's daughter [next in line], so that the entire two-thirds of the fixed share is distributed among the daughters. That is why, the reason for giving one-sixth to son's daughter in this case is said to be "the completion of two-thirds (تكملة الثلثين)".

For example, among the heirs of a deceased, there are: one daughter, one son's daughter, a father and a mother, so:

Daughter	$\frac{1}{2}$
Son's daughter	$\frac{1}{6}$
Father	$\frac{1}{6}$
Mother	$\frac{1}{6}$

Mother will get one-sixth, father will get one-sixth, daughter will get one-half, and son's daughter will also get one-sixth in order to complete two-thirds of the daughters' share. Based on this, the sum of both daughters' (daughter & son's daughter) share will be two-thirds (one-half + one-sixth).



A “two-thirds” has a total of four “one-sixths” in it. And “one-half” has a total of three “one-sixths” in it. If you subtract one-half i.e. three one-sixths from two-thirds i.e. four one-sixths, then you get one one-sixth remaining.

As an example, let's take the number “60” and let's figure out its one-sixth, one-third, and one-half values:

One-sixth ( $1/6$ ) of (60) is: 10.

One-third ( $1/3$ ) of (60) is: 20, and its two-thirds ( $2/3$ ) would be: 40.

One-half of (60) is: 30.

Hence, in two-thirds of 60, there are four one-sixths ( $10 + 10 + 10 + 10$ ).

And in one-half of 60 (which is 30), there are three one-sixths ( $10 + 10 + 10$ ).

If we subtract one-half (30) (i.e. three one-sixths) from the two-thirds (40) (i.e. four one-sixths), we get 10 back i.e. one one-sixth.

Those who know math can understand it like this:

(Two-Thirds – One-Half)

$$\frac{2}{3} - \frac{1}{2} = \frac{1}{6}$$

(One-Sixth + One-Half)

$$\frac{1}{6} + \frac{1}{2} = \frac{2}{3}$$

$$\frac{2}{3} * \frac{2}{2} - \frac{1}{2} * \frac{3}{3} = \frac{4}{6} - \frac{3}{6} = \frac{1}{6}$$

$$\frac{1}{6} + \frac{1}{2} * \frac{3}{3} = \frac{1}{6} + \frac{3}{6} = \frac{4}{6} = \frac{2}{3}$$

### Conditions for receiving one-sixth ( $1/6$ ):

The condition for a son's daughter to get one-sixth is that she must not have a blocker (حاجب), nor an 'aasib (عاصب) [i.e. son's son], and that there is a daughter in the level higher than her who is eligible to receive one-half. In this case, as we explained above, the daughter in the upper level of son's daughter gets one-half, which means, there still remains one-sixth for the completion of two-thirds. So this one-

sixth is given to the son's daughter and thus two-thirds of the fixed share is completed.

### Evidence:

"عن هزير بن شرحبيل، قال: سئل أبو موسى عن بنت وابنة ابن وأخت، فقال: للبنت النصف، وللأخت النصف، وأت ابن مسعود، فسئلت ابني، فسئل ابن مسعود، وأخبر بقول أبي موسى فقال: لقد ضللت إذا وما أنا من المهتدين، أقضي فيها بما قضى النبي صلى الله عليه وسلم: «للابنة النصف، ولابنة ابن السدس تكملة الثلثين، وما بقي فللأخت» فأتينا أبا موسى فأخبرناه بقول ابن مسعود، فقال: لا تسألوني ما دام هذا الخبر فيكم"

"Abu Musa was asked regarding (the inheritance of) a daughter, a son's daughter, and a sister. He said, "The daughter will take one-half and the sister will take one-half. If you go to Ibn Mas'ood, he will tell you the same." Ibn Mas'ood was asked and was told of Abu Musa's verdict. Ibn Mas'ood then said, "If I give the same verdict, I would stray and would not be of the rightly-guided. The verdict I will give in this case, will be the same as the Prophet (ﷺ) did, which is that, one-half is for the daughter, **and one-sixth for the son's daughter, making two-thirds complete**; and the rest is for the sister." Afterwards, we came to Abu Musa and informed him of Ibn Mas'ood's verdict, whereupon he said, "Do not ask me for verdicts, as long as this learned man is among you."

[Saheeh al-Bukhaari (6736)]

**Note:** In this case if the number of son's daughters is more than one, then this one-sixth will be divided among them equally.

### ➤ **Fourth Case: Two-Thirds (2/3):**

If son's daughter has neither of the two additional cases (i.e. she is neither blocked from getting anything, nor does she get one-sixth in order to complete the two-thirds). This means, there is no direct [upper level] descendant of the deceased: neither male nor female,

then son's daughter becomes completely like the daughter. Therefore, if son's daughter does not have any 'aasib, then in case of being more than one, (i.e. there being only son's daughters among the descendants), they will get two-thirds.

### **Evidence:**

The evidence is the same as the one given for daughters getting two-thirds, because in the absence of sons and daughters, the generality of the verse includes this as well.

### **Example:**

2 Son's Daughters	$\frac{2}{3}$
C Brother	Residue
U Sister	X

### ➤ **Fifth Case: One-Half (1/2):**

If none of the above cases are applicable to the son's daughter, i.e. there is only a single son's daughter as a descendant, then she will become completely like a single daughter and get one-half.

### **Evidence:**

The evidence is the same as the one given for the daughter getting one-half, because in the absence of a daughter, this is also included in the generality of the verse.

### **Example:**

Wife	$\frac{1}{8}$
Son's Daughter	$\frac{1}{2}$
F Brother	Residue

**Note:** After the continuity of sons, if there comes a female, she will be considered a grand-daughter [i.e. son's daughter] of the deceased [for e.g. son's son's daughter] and one of the above five cases will be applicable to her.

## Exercises:

- 9- Husband (زوج), Son's Son (ابن الإبن), Son's Daughter (بنت الإبن).
- 10- Wife (زوجة), 2-Son's Daughters (بنات الإبن/٢), F Brother (أخ شقيق).
- 11- Husband (زوج), Son's Daughter (بنت الإبن), C Brother (أخ لأب), U Sister (أخت لأم).
- 12- Husband (زوج), Daughter (بنت), Son's Daughter (بنت الإبن), Son's Son's Son (ابن ابن الإبن).
- 13- Wife (زوجة), 2-Daughters (بنات/٢), Son's Daughter (بنت الإبن), Son's Son's Son (ابن ابن الإبن).
- 14- Husband (زوج), Daughter (بنت), Son's Daughter (بنت الإبن), Son's Son's Daughter (بنت ابن الإبن), Son's Son's Son (ابن ابن الإبن).

## CHAPTER THREE: SHARES OF PARENTS (أصول)

### THE SHARE OF A FATHER (أب)

Cases:

1- One-Sixth (1/6)	Male descendant exists	A male descendant heir (son or son's son) exists.
2- One-Sixth (1/6) + Residue	Only female descendant exists	There are only females as descendants (daughter(s) or grand-daughter(s))
3- Residue	No Descendants	None of the above cases are true [i.e. no children at all]

#### Explanation:

In essence, a father has only one case which is that he gets one-sixth as a fixed share (Fardh) as it is explained in the Qur'an, and this is the most common case for a father. However, if after giving every heir his/her due right there remains something behind, then that also goes to the father as a residuary [in case a closer residuary, like a son, does not exist]. And the case of something remaining behind has different scenarios, therefore, based on this, a father has an additional two cases, making a total of three cases for him:

#### ➤ First Case: One-Sixth (1/6):

**The Condition for receiving One-Sixth:**

The condition for the father (أب) to receive one-sixth is that there exists a male descendant heir of the deceased (i.e. son), irrespective of the fact whether a female descendant heir also exists or not.

### Evidence:

"وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ"

“As for his parents, for each of them, there is one-sixth of what he leaves in case he has a child.”

[al-Nisaa (4:11)]

### The Reason for receiving One-Sixth only:

In the presence of a male descendant heir (i.e. son or grandson), a father only gets one-sixth. The reason for that is because a male descendant heir (son) is a closer ‘asabah (residuary) [than the father], which means all of the residue of the estate will go to him. If the male descendant is alone, then he will get all of the residue of the estate; and if he is with a female descendant heir [as his ‘asabah bil-ghayr] (i.e. daughter or grand-daughter), then all of the residue of the estate will go to both of them together based on the principle: {the share of the male will be twice that of the female}. Therefore, in this case, there is no additional share that could be given to the father, hence, he does not get anything other than the one-sixth.

### Examples:

Father	$\frac{1}{6}$
Son	Residue
Daughter	

Father	$\frac{1}{6}$
Son	Residue
F Brother	X

### ➤ Second Case: One-Sixth (1/6) + Residue:

Sometimes, along with receiving one-sixth, a father also receives the estate that remains behind after each heir is given his/her due right in share. This means, he receives a share both from the fixed share (fardh) category as well as from the 'asabah (residuary) category.

It should be understood that in this case, a father will only get the residue of the estate if there is something left after giving all other heirs their shares. However, sometimes all of the estate gets spent on the other heirs and there is nothing that remains behind. In this case, the father will have to be content with his share of one-sixth only.

### **The Condition for receiving One-Sixth + Residue:**

The condition for the father to receive one-sixth + the residue is that there must only be a female descendant heir (i.e. daughter or grand-daughter), and a male descendant heir (i.e. son or grandson) must not be available.

#### **Evidence:**

The evidence for receiving one-sixth has passed above, and along with that, the evidence of receiving the residue is the hadeeth of 'asabah (page 44).

### **The Reason for receiving One-Sixth (1/6) + Residue:**

If there is only a female among the descendant heirs (i.e. daughter or grand-daughter), then the father receives one-sixth plus the residue. That is because, at most, a daughter can only receive one-half, not more than that. Therefore, after giving one-half to the daughter, all of the other one-half is reserved for the remaining heirs; and since the shares of the heirs other than the descendants are very small in quantity in some conditions, that is why, if the other heirs are those with really small shares and they are not a lot in number, then after distributing the shares among the other heirs, there can remain something behind. The wealth that remains behind is returned to the father again.

#### **Example:**

		24
Wife	$\frac{1}{8}$	3
Father	$\frac{1}{6} + \text{Residue}$	4 + 5
Daughter	$\frac{1}{2}$	12

### Why give the Residue to the Father?

The reason for this is the hadeeth of ‘asabah mentioned earlier (page 44), which states that after giving ashaab ul-furoodh (fixed sharers) their fixed shares, the residue of the estate will be given to the nearest male heir of the deceased. Since there remains something from the estate behind only because of the absence of the son, that is why, in the absence of the son, there is no one closer to the deceased among the male heirs other than the father of the deceased. Therefore, he is the one who gets the residue of the estate.

### The Reason for there not remaining something behind in some occasions:

Sometimes, the father is eligible to get the residue of the estate, but he is not able to get it because all of the estate gets spent on the other heirs and there is nothing that remains behind.

This happens when the heirs other than the female descendant are those with large shares, or are a lot in number. So after giving one-half to the female descendant (daughter or grand-daughter), the other one-half gets distributed among the other heirs and nothing remains behind. In fact, sometimes there may even occur a shortage [of wealth against the large number of shares] which is referred to as “**Awl (عول)**”, which will be discussed later.



**Examples:**

Heirs	Share	12 Awl 13
Husband	$\frac{1}{4}$	3
Father	$\frac{1}{6}$	2
2 Daughters	$\frac{2}{3}$	8

Heirs	Share	6
Father	$\frac{1}{6}$	1
Mother	$\frac{1}{6}$	1
Daughter	$\frac{1}{2}$	3
2 Son's Daughters	$\frac{1}{6}$	1

In the first example, the heirs are those with large shares [that is why there is a shortage]; and in the second example, the heirs are those with small shares but they are more in number. Therefore, in both of the examples, there is nothing that remains behind.

➤ **Third Case: Residue Only:**

Sometimes, a father only gets the residue of the estate, i.e. he receives only as an 'asabah.

**The Condition for receiving the Residue only:**

If none of the earlier mentioned cases are true, i.e. there is no descendant heir at all (neither son nor daughter), then in such a case, the father will get the estate that remains behind (residue).

### Evidence:

The evidence for this is the hadeeth of ‘asabah (page 44). Moreover, the verse of inheritance also contains the evidence for this. See the footnote in the next page.

### The Reason for getting the Residue:

In this case, the father does not get a specified share. That is why, he only gets what remains behind of the estate, based on the hadeeth of ‘asabah.

### Example:

Husband	$\frac{1}{2}$
Father	Residue

### The ‘Umariyah Issue (المسئلة العمرية):

There is another case in which a father gets a share that is disputed upon.

And that special case is when the deceased has only the spouse (husband or wife) and parents (father and mother) as the heirs, and there is no other heir (if there are any additional heirs then they are being blocked. Consequently, the share of the mother is not coming out to become any less than one-third because of that).

For example:

- ❖ A man dies and leaves behind a wife, and both parents.  
Based on the Qur’anic principle, the wife will get “one-fourth”, the mother will get “one-third”, and the “residue” will go to the father.
- ❖ Or, a woman dies and leaves behind a husband, and both her parents.  
Based on the Qur’anic principle, the husband will get “one-half”, the mother will get “one-third”, and the “residue” will go to the father.

In both of these cases, in spite of a male and a female being in the same level, the share of a male is not twice that of the female, but in fact, in the later example, the female is the one who is getting twice the share of a male.

This is why, in both of these cases, some scholars have opined that the one-third share of the mother will be dissolved and combined with the residue of the estate, then that residue will be divided into three parts, and two parts will be given to the father and one to the mother. This ruling was first made by Umar ibn al-Khattaab (radiallah anhu) that is why, it is called “the Umariyah Issue”.

This is the opinion that majority of the scholars have preferred. However, Ibn ‘Abbaas (radiallah anhu) opposed this opinion and favored the apparent ruling established by the Qur’an (Musannaf Ibn Abi Shaybah: 11/242, Chain Saheeh). Moreover, the hadeeth of ‘asabah also seems to be in accordance with the view of Ibn ‘Abbaas (radiallah anhu). The Dhahiri School [of fiqh] has adopted the opinion of Ibn ‘Abbaas. In fact, Ibn Hazm (rahimahullah) has strictly refuted the view of the opposing scholars in favor of the view of Ibn ‘Abbaas (radiallah anhu).

Some scholars have tried to prove the validity of the umariyah issue from the Qur’an itself saying that the Qur’an has put a condition for the mother to get one-third, and that condition is that the deceased has no children and he/she is succeeded by both the parents, only then will the mother get one-third, otherwise, putting the condition of both the parents [i.e. mentioning both the parents and specifying only the mother as the one getting one-third] makes no sense.

[Translator’s note: the verse (4:11) mentions both the parents and specifies the mother as receiving one-third, so they argued that this means one-third is the share of the mother from the combined share of both the parents. In other words, after giving the spouse his/her share, from the remaining amount, mother will get one-third which means father will get two-thirds out of the remaining amount. So instead of mother getting one-third from the whole of the estate, she will get one-third only from the residue of the estate.]

However, this argument is wrong because in case of there being no father, and only mother and a brother, the scholars are all agreed that the mother will get one-third. As for the condition of both parents, then this is not a condition, rather only an expression of the share of the parents in case of there being no children. Just like before this, the share of the parents is said

to be one-sixth in case of the presence of children, the same way, here, in case of the absence of children, the share of the mother is said to be one-third provided there are no plural siblings (more than one), and father will also be a successor i.e. he will get the residue, as the hadeeth of 'asabah also indicates this. Therefore, these words are not additional [i.e. "both parents" is not just mentioned as an additional word that makes no sense] rather they are being used to describe the share of each of the parents in case there are no children, i.e. in this case, the share of the mother is said to be "one-third" as part of a fixed share (Fardh) and the share of the father is said to be the "residue" as part of a residual share.

[Translator's note: In other words, by specifying both parents, they both are being described as the successors, but only the mother's share is mentioned because out of the two of them, only hers is the fixed share. Whereas the share of the father is not fixed because he gets whatever is left behind, as indicated by the hadeeth of 'asabah.]

## THE SHARE OF FATHER'S FATHER (أَبُو الْأَب) (GRANDFATHER)

Cases:

1- <b>Blocked by Father (محجوب بالأب)</b>	<b>Blocker Exists</b>	If the father or a closer grandfather [as compared to a distant grandfather, in the absence of a father] is alive, then he will not get anything.
2- <b>One-Sixth (1/6)</b>	<b>Male descendant exists</b>	A male descendant heir (son or son's son) exists.
3- <b>One-Sixth (1/6) + Residue</b>	<b>Only female descendant exists</b>	There are only females as descendants (daughter(s) or grand-daughter(s))
4- <b>Residue</b>	<b>No Descendants</b>	None of the above cases are true [i.e. no descendants at all]

### Explanation:

In case the father is not alive, the share of the father will go to the grandfather. That is why, the cases for the share of grandfather along with their evidences are the same as the father. And when the father is alive, then the grandfather will be blocked <sup>(10)</sup>.

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**10** - According to the supporters of the umariyah issue, none of the scenario of the umariyah issue are applicable here in the share of the grandfather, because if in the same level as the grandfather there is also a grandmother, then her share is still only one-sixth [not one-third as it is for the mother], which can never be more than the share of the grandfather. And if along with the grandfather, the mother is present who receives one-third, then since she

No matter however higher up the ancestry of the father goes through the continuity of males, all of them will be included in the meaning of "Father". Additionally, based on the hadeeth of 'asabah, they will be included among the 'asabah (Residuaries), and they will become eligible heirs in the absence of a closer residuary than them.

[Translator's note: For example, if father and father's father both are not alive, but father's father's father is alive then he will take the position of the father and share the cases mentioned above.]

This upper level father is called a "True Grandfather (جد صحيح)", i.e. a grandfather between whom and the deceased, there is no female. On the other hand, a grandfather between whom and the deceased, there is a female, is called a "False Grandfather (جد فاسد)".

### Why a false grandfather (جد فاسد) does not inherit?

Actually, a true grandfather (جد صحيح) (أبو الأب) is included in the meaning of the deceased's "Father". Whereas, on a false grandfather (جد فاسد), the meaning of being the deceased's father does not get applied, that is why, he is not included in the meaning of father. Therefore, he does not become an heir.

### Examples:

Father	$\frac{1}{6}$
Father's Father	X
Son	Residue

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is not of the same level as the grand-father, rather the grandfather is more distant than her, so he cannot prevent her from getting a share more than his i.e. one-third.

Father's Father	$\frac{1}{6}$
Son	Residue
U Brother	X

Wife	$\frac{1}{4}$
Father's Father	Residue
F Sister	X

Father's Father	$\frac{1}{6} + \textit{Residue}$
Daughter	$\frac{1}{2}$
F Brother	X

## THE SHARE OF A MOTHER (أم)

Cases:

1- <b>One-Sixth</b> (1/6)	<b>A descendant or multiple siblings exist</b>	The deceased has any descendant heir [son, daughter, son's daughter, son's son etc.] OR the deceased has multiple siblings
2- <b>One-Third</b> (1/3)	<b>Neither a descendant nor multiple siblings exist</b>	The deceased has no descendant heirs, and the deceased does not have multiple siblings.

### Explanation:

Generally, the mother will get one-sixth from the fixed share (Fardh) category just like the father. But when the deceased has no children, the share of the mother gets increased from one-sixth to one-third, and the remaining estate is declared to be the legal right of the father.

Additionally, if the deceased has no children, but he has more than one sibling, whether it is two brothers or two sisters or one brother one sister; moreover, these siblings could be from any category, such as consanguine siblings or uterine siblings. In all cases, if the number of siblings is more than one, then in this case also, the share of the mother will remain to be one-sixth.

### ➤ First Case: One-Sixth (1/6):

The condition for the mother to receive one-sixth is that:

There exists any descendant heir. This means, there must be any male or female descendant of the deceased. Alternatively, there are multiple siblings of the deceased, i.e. from any type of sibling (full or



half) there must be more than one, no matter they are all brothers, all sisters, or mixed.

### Evidence:

"وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ"

“As for his parents, for each of them, there is one-sixth of what he leaves in case he has a child.”

[al-Nisaa (4:11)]

"فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ"

“If he has some siblings [i.e. plural], his mother gets one-sixth”

[al-Nisaa (4:11)]

The word “Ikhwah (إخوة) (Siblings)” in this verse is general, which includes siblings of any type and gender.

### Examples:

Father	$\frac{1}{6}$
Mother	$\frac{1}{6}$
Son	Residue

Mother	$\frac{1}{6}$
Daughter	Residue
Son	

Mother	$\frac{1}{6}$
Daughter	$\frac{1}{2}$
F Brother	Residue

Mother	$\frac{1}{6}$
Son	Residue
Son's Son	X

Mother	$\frac{1}{6}$
2 F Brothers	Residue
F Uncle	X

Mother	$\frac{1}{6}$
3 C Brothers	Residue
F Uncle	X

Mother	$\frac{1}{6}$
2 F Sisters	X
Father	Residue

Mother	$\frac{1}{6}$
2 C Sisters	X
Father	Residue

Mother	$\frac{1}{6}$	Mother	$\frac{1}{6}$	Mother	$\frac{1}{6}$	Mother	$\frac{1}{6}$
F Brother	Residue	F Brother	Residue	C Brother	X	F Sister	X
C Brother	X	F Sister		U Brother	X	C Sister	X
F Uncle	X	F Uncle	X	Father	Residue	Father	Residue

**Note:**

If the mother is receiving one-sixth because the deceased has more than one siblings, then in this case, it is also possible that only one of the siblings is actually an eligible heir while the other siblings are being blocked; or all of the siblings are being blocked but they are causing the mother to get one-sixth because of being more than one, as we have seen in some of the examples above.

That is why, while distributing the share of the mother, even if the siblings are being blocked from getting anything, it is still important to list them among the list of heirs, so that there does not occur a mistake in determining the share of the mother.

One should not make the mistake of thinking that since the deceased has neither any children nor any of the multiple siblings are getting any share, so the mother should be given one-third! That is because, the Qur'an has only stipulated the presence of multiple siblings for the share of mother being one-sixth [not the fact whether the siblings themselves are getting a share or not]. Therefore, in this case, the mother will not be given one-third, but one-sixth.

➤ **Second Case: One-Third (1/3):**

The condition for getting One-Third:

The mother will get one-third only when the deceased has neither any children, nor more than one sibling – i.e. siblings from any direction (full or half) that are not more than one.

**Evidence:**

"فَإِنْ لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ"

“But if he is childless and his parents are the only heirs, then his mother will receive one-third. But if he leaves some siblings [i.e. plural], then his mother will receive one-sixth”

[al-Nisaa (4:11)]

### Examples:

Husband	$\frac{1}{2}$
Mother	$\frac{1}{3}$
Full Uncle	Residue

Father	Residue
Mother	$\frac{1}{3}$
Full Brother	X

### The Umariyah Issue:

In the umariyah issue, there is a third case for a mother which is disputed upon. It is explained in the footnote on page (89).

## THE SHARE OF TRUE GRANDMOTHER (جدة صحيحة)

In the absence of the deceased's father, his/her grandfather (father's father) takes the place of the father. However, in case of the absence of the deceased's mother, his/her grandmother (mother's mother, or father's mother) does not take the place of the mother. There are several reasons for this, but it is sufficient to know that in the hadeeth there is a special share designated for the grandmother. Therefore, her matter is different [from other cases].

**Note:** It should be noted that there are some scholars who are of the view that in case of the absence of the mother, the grandmother of the deceased will take her place. This means, in the absence of the mother, her share will be exactly like the share of the mother. Those who held this view did not consider the hadeeth specifying one-sixth as the share of grandmother to be authentic. However, according to the more accurate view, the narration specifying one-sixth as the share of the grandmother is at least of Hasan grade [i.e. authentic]. Therefore, the case of the grandmother will be different according to this hadeeth.

Cases:

1- <b>Blocked by Mother</b> (محجوب بالأم)	<b>The mother or a closer grandmother exists</b>	If the mother or a closer grandmother [as compared to a distant grandmother, in the absence of a mother] is alive, then such a grandmother will not get anything.
2- <b>One-Sixth</b> (1/6)	<b>Neither the mother nor a closer grandmother exists</b>	The blocker does not exist, OR a closer grandmother does not exist.

## Explanation:

For a paternal grandmother (father's mother) or a maternal grandmother (mother's mother), there is a special hadeeth which specifies that she will be given one-sixth in case there is no mother.

Buraydah (radiallah anhu) narrates:

«أن النبي صلى الله عليه وسلم جعل للجدة السدس، إذا لم يكن دوها أم»

“The Prophet (ﷺ) appointed a sixth to a grandmother if no mother is left to inherit before her.”

[Sunan Abu Dawood (2895), Hasan Lighayrih]

In light of this hadeeth, the details regarding the cases of the grandmother are as follows:

### ➤ **First Case: Blocked:**

If the mother or a closer grandmother exists, then all types of grandmothers [i.e. paternal or maternal] will get blocked, as is understood from the hadeeth above.

### Examples:

Mother	$\frac{1}{3}$
Mother's Mother	X
F Brother	Residue

Mother	$\frac{1}{3}$
Father's Mother	X
F Brother	Residue

### ➤ **Second Case: One-Sixth (1/6):**

If the mother or a closer grandmother does not exist, then all types of grandmothers [i.e. paternal or maternal] will get one-sixth [i.e. combined], as is understood from the hadeeth above.

### Examples:

Mother's Mother	$\frac{1}{6}$
F Brother	Residue

Father's Mother	$\frac{1}{6}$
F Brother	Residue

### The difference of opinion regarding the blocking of Paternal Grandmother:

There is a unanimous consensus of everyone that in the presence of the mother, the paternal grandmother [i.e. father's mother] will be blocked. But would she be blocked by the presence of the father as well? There is a difference of opinion on that.

We discussed the principle of connection (أصول واسطة) under the discussion of Hajab (Blocking). According to this principle, paternal grandmother should be blocked by the presence of father. Based on this, the view of the majority of scholars is that the paternal grandmother (father's mother) would be blocked by the presence of father.

However, other scholars have made an exception of paternal grandmother from the principle of connection, just like an exception is made for the uterine siblings.

And the evidence for this exception is the above mentioned special hadeeth, in which only the presence of the mother is declared to be the cause for grandmother being blocked [not the father]. Therefore, based on the evidence of this special hadeeth, the father cannot block the paternal grandmother. This is the opinion of Imaam Ahmad and it is the preferred one. That is because since we have excluded the uterine siblings from the principle of connection based on a special evidence, then it makes sense to also exclude the paternal

grandmother from this principle based on a special evidence. There is no evidence for differentiating between the two.

Moreover, a paternal grandmother does not get the share of her connection (i.e. father) [when he is absent], because she does not become an heir by taking the position of the father, rather she becomes an heir by taking the position of the mother in the absence of the mother. Therefore, the mother is the one who is supposed to be her “connection” [according to the principle of connection]. That is why she is blocked by the presence of the mother.

### **The Share of More Than One Grandmother:**

If there are more than one grandmothers at the same time, for example: one is the paternal grandmother and the other is the maternal grandmother then both of them will not get one-sixth each, rather the entire group of grandmothers will get one-sixth which will be divided among them equally. Just like in the case of more than one wife, all of the wives equally share the one share assigned to the spouse category.

The evidence for this is firstly, the fact that this is how it has been narrated in some narrations, and secondly, these women belong to the same single group, that is why they are similar to the case of more than one wife.

### **Continuity of Grandmothers and True Grandmother (جدة صحيحة):**

The lineage of a grandmother, however higher up it goes, they all will become the heirs. However, the condition is that the grandmother should be such that the meaning of being a “Mother’s Mother” or “Father’s Mother” could be applied to her. Such a grandmother is called “True Grandmother (جدة صحيحة)”.

### **The Definition of True Grandmother (جدة صحيحة):**

It’s a grandmother between whom and the deceased there does not come a “False Grandfather (جد فاسد)”.

In other words, it's a grandmother in a way that after the deceased, the lineage of the deceased does not have a male after the occurrence of a female. For example:

Mother's Mother's Mother's Mother

Father's Mother's Mother's Mother

Father's Father's Father's Mother

### **The Definition of False Grandmother (جدة فاسدة):**

It's a grandmother between whom and the deceased there comes a "False Grandfather (جد فاسد)".

In other words: it's a grandmother in a way that after the deceased, the lineage of the deceased has a male after the occurrence of a female. Such a grandmother is called False Grandmother.

- ❖ The example of a "False Grandmother" from the mother's side is: Mother's Father's Mother.

In this example, a false grandfather (i.e. Mother's Father i.e. maternal grandfather) is present between the deceased and the grandmother. In other words, a male has occurred after the occurrence of a female. That is why the meaning of "Mother's Mother" cannot be applied to her.

- ❖ The example of a "False Grandmother" from the father's side is: Father's Mother's Father's Mother.

In this example, a false grandfather (i.e. deceased's father's maternal grandfather) is present between the deceased and the grandmother. In other words, a male has occurred after the occurrence of a female. That is why the meaning of "Mother's Mother" cannot be applied to her.

### **Why a false grandmother (جدة فاسدة) does not inherit?**

That is because the grandmother that is proven to become an heir from the hadeeth is either the deceased's father's mother, or the



deceased's mother's mother. In other words, the mother of the deceased's both parents are proven to be the heirs.

And a true grandmother is the only one who is included in the meaning of being the deceased's father's or mother's mother. Whereas, a false grandmother is not included in the meaning of being the deceased's father's or mother's mother. Therefore, she does not become an heir.

## Exercises:

- 1- Father (أب), Son (ابن), Daughter (بنت)
- 2- Father (أب), Daughter (بنت), F Brother (أخ ش)
- 3- Father (أب), Son (ابن), C Brother (أخ لأب)
- 4- Father (أب), Mother (أم), Son (ابن), Daughter (بنت)
- 5- Mother (أم), Son (ابن), Daughter (بنت)
- 6- Mother (أم), Daughter (بنت), F Uncle (عم ش)
- 7- Husband (زوج), Father (أب), Mother (أم)
- 8- Mother (أم), Father's Father (أبو الأب), Mother's Mother (أم الأم)
- 9- Mother (أم), Father's Father (أبو الأب), Father's Mother (أم الأب)
- 10- Mother's Mother (أم الأم), Father's Mother (أم الأب), F Brother (أخ ش)

## CHAPTER FOUR: SHARES OF SIBLINGS

### (حواشي)

If any male from the furoo' (descendants) or Usool (ancestors) is present, then everyone from the hawaashi (siblings & uncles) group will get blocked (محجوب). This important principle must be kept in mind for this category.

In the beginning we discussed that the hawaashi group consists of two subgroups: One is the Siblings (إخوة) group and the other is the Uncles [i.e. father's siblings] (عمومة) group. No one from the Uncles (عمومة) group gets a share from the fixed share category (Fardh), rather all of them only get a share as being the 'asabah (residuary). Moreover, from the siblings group, only a uterine brother (أخ لأم) among the males gets a share from the fixed share category (Fardh), whereas all of the females from the siblings group get a share from the fixed share category [i.e. provided they become eligible to receive it].

Before discussing the shares of hawaashi, it is appropriate that we first understand the meaning of the verses in which the inheritance of every type of brother and sister is mentioned. These are a total of two verses and both of them mention the word "Kalaalah (كَلَالَة)" in them. That is why these verses are called the verses of kalaalah.

#### First Verse:

"وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ ۖ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ"

“And if a man or a woman is Kalaalah (i.e. has neither parents alive, nor children) and has a brother or a sister, then each one of them will get one-sixth. However, if they are more than that, they will be sharers in one-third”

[al-Nisaa (4:12)]

The brothers and sisters discussed in this first verse refer to the “Uterine Siblings (إخوة لأم)” by the unanimous consensus i.e. siblings with the same mother but different fathers.

In fact, Sa’d bin Abi Waqqaas (radiallah anhu) used to read this verse:

"وله أخ أو أخت" (And has a brother or a sister)

And make the addition of: "لأم" (Uterine) after it. (Sunan al-Daarimi: 4/1945 H. 3018, Saheeh)

In any case, there is a unanimous consensus of the Ummah on the fact that the siblings mentioned in this verse refer to the uterine siblings.

### Second Verse:

" قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنْ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ ۚ وَهُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ ۚ فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ ۚ وَإِنْ كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ "

“Say, “Allah gives you the ruling concerning Kalālah. If a person dies having no child, but he does have a sister, then, she will get one half of what he leaves. (On the other hand) He will inherit her if she has no (male<sup>11</sup>) child. If they are two (sisters), they will get two third of what he leaves. If they are brothers and sisters, both male and female, then, the male will get a share equal to that of two females.”

[al-Nisaa (4: 176)]

The brothers and sisters mentioned in this verse refer to the “Non-Uterine Siblings (إخوة لغير أم)” i.e. full or consanguine siblings by the unanimous consensus.

Note that in both the above mentioned verses, two different types of siblings are mentioned. Moreover, the nature of their shares is also

11 - The restriction of “male” is because of a specific hadeeth. See Sunan Tirmidhi, H. 2092, Grade: Hasan.

different. This means, the heirs mentioned in both these verses are different and their shares are also different.

However, the one thing that is common in both the verses is that the muwarrath i.e. the deceased is referred to as “al-Kalaalah”. This is an indication that the condition of the deceased (Muwarrath) is the same in both the verses.

Now if we look at the first verse, we see that although the deceased is called “al-Kalaalah”, but there is no specification mentioned for it [i.e. as to who a kalaalah is]. Whereas, in the second verse, the deceased is called al-Kalaalah, and it is specified by the saying: {لَيْسَ لَهُ وَلَدٌ} i.e. deceased is childless. This proves that the deceased mentioned in the first verse would also be childless because he is also called al-Kalaalah.

The result after summing up both the verses is that any type of a sibling would get a share only when the deceased is kalaalah, and a deceased would only be a kalaalah when he has no children.

This means that if the deceased has a child, then is not a kalaalah. Therefore, the siblings of such a deceased would not get any share.

In other words, the offspring of the deceased (male or female) will cause the siblings of the deceased to be blocked (mahjoob). So from this we get two general rules of hajab (blocking):

### **Rule # 1:**

A male from the descendants will block all of the siblings from getting a share.

### **Rule # 2:**

A female from the descendants will (also) block all of the siblings from getting a share.

The first rule will remain intact in its generality. But the second rule has certain narrations (i.e. hadeeth of ‘Asabah (page 44) & hadeeth of

Ibn Ma'sood (radiallah anhu) (page 81)<sup>(12)</sup> which cause the non-uterine siblings i.e. full brothers and sisters as well as consanguine brothers and sisters, to be excluded from this generality in that they don't get blocked [by a female descendant]. However, there is no exception for the uterine siblings, therefore, they will get blocked by a female descendant. Based on this, the second general rule, in light of these special narrations, would come out to be as follows:

## Rules # 2:

A female from the descendants will block the uterine siblings from getting a share.

After we have understood this much, let's ponder over the second verse of kalaalah once again. In it, we find these words:

" وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ "

“But he does have a sister, then, she will get one half of what he leaves”

[al-Nisaa (4: 176)]

In these words, the sister of a kalaalah is declared eligible to receive one-half from the estate of the kalaalah. Now if there also exists the father of the kalaalah, then this means a strong heir such as a father can also come across a situation where he would not get anything.

For example, if among the heirs of a deceased there exist: a husband, a father, and a full sister, then:

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**12** - According to the hadeeth of Ibn Mas'ood (radiallah anhu), if a non-uterine sister (أخت لغير أم) can become 'asabah ma' al-ghayr with a female descendant, then [all of] the non-uterine siblings (إخوة لغير أم) would be even more worthy of becoming 'asabah bil-nafs and asabah bil-ghayr.

Heirs	Share	2	
Husband	$\frac{1}{2}$	1	
Father	Residue	X	1
F Sister	$\frac{1}{2}$	1	X

Husband will get one-half, and if full sister is given one-half, then all of the wealth will be finished on both of them. There is nothing left for the father. Note that a father is someone who gets one-sixth even with the presence of the closest heir of the deceased, i.e. the son. In fact, if the deceased only had a daughter, then the father receives the residue also along with the one-sixth. Then how is it possible that such a strong heir of the deceased will get deprived even with the absence of the closest heir of the deceased i.e. the son?

In there is an indication that when one-half is given to the sister, the father does not even exist.

We can conclude that kalaalah would refer to such a deceased who does not have a father also.

While concluding the same, Imaam Ibn Katheer (rahimahullah) said:

"لأن الأخت لا يفرض لها النصف مع الوالد"

"Because a sister cannot be given one-half with the presence of the father"

[Tafseer Ibn Katheer (2/482), Dar Taybah]

Apart from that, there are some other general evidences as well from which we can deduce that kalaalah is someone who does not have a father also.

The same meaning of kalaalah is also proven from Abdullah bin 'Abbaas (radiallah anhu) [al-Sunan al-Kubra lil-Bayhaqi (6/224), pub. Al-Hind, Chain Saheeh].

On the contrary, what is proven from Umar ibn al-Khattaab (radiallah anhu) on this is either sukoot (silence) or an ambiguous saying. This means, there is nothing explicitly proven from Umar ibn al-Khattaab (radiallah anhu) against this.

In fact, the entire Ummah has come to a unanimous consensus on this understanding. Therefore, this understanding is absolutely correct. In light of this, we get a third rule of hajib, which is:

### **Rule # 3:**

A male from the ascendants will block all of the siblings from getting a share.

After this detail, let's look at the shares of hawaashi.

## THE SHARE OF UTERINE SIBLINGS (إخوة لأم)

Cases:

1- <b>Blocked</b>	<b>Blocker Exists</b>	A blocker (haajib) exists (i.e. any male or female from the descendants or a male from the ascendants)
2- <b>One-Third (1/3)</b>	<b>Plural</b>	A blocker does not exist; And the uterine siblings themselves are multiple in number (i.e. more than one, no matter they are all males, all females, or both)
3- <b>One-Sixth</b>	<b>Singular</b>	A blocker does not exist, and the uterine sibling is only one (i.e. any one of the uterine siblings, whether male or female)

### Explanation:

Uterine siblings i.e. brothers and sisters through a common mother [but different fathers] are equal with regard to getting a fixed share (Fardh). This means that the principle of {a male will get twice the share of a female} will not apply to them, rather males and females both will get equal shares. Since the cases for a uterine brother and a uterine sister are the same, they both are referred to as “Uterine Siblings (إخوة لأم)” as a single unit and hence, their cases are written together. There are a total of three cases for them, which are as follows:

#### ➤ **First Case: Blocked:**

If a male or a female from the descendants (furoo') i.e. any of the deceased's children, or a male from the ascendants (usool) exist, then the uterine siblings would not get anything.



**Evidence:**

The evidence for this has passed before, under the explanation of the verse of kalaalah.

**Examples:**

Son	Residue
U Sibling	X

Daughter	$\frac{1}{2}$
U Sibling	X
F Brother	Residue

Father	Residue
U Sibling	X

**➤ Second Case: One-Third (1/3):**

If a blocker (haajib) does not exist for the uterine siblings, i.e. neither male nor female descendant exists, and a male ascendant does not exist. In this case, if the uterine siblings are more than one in number, no matter they are all males, all females, or both, then the uterine siblings will get one-third. This means, they all will share one-third equally among them, irrespective of the gender. This means, the principle of {a male will get twice the share of a female} will not apply here.

**Evidence:**

" فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ "

“However, if they are more than that, they will be sharers in one-third”

[al-Nisaa (4:12)]

**Example:**

F Brother	Residue
U Siblings	$\frac{1}{3}$

### ➤ Third Case: One-Sixth (1/6):

If a blocker (haajib) does not exist for the uterine sibling, i.e. neither male nor female descendant exists, and a male ascendant does not exist. In this case, if the uterine sibling is only one in number, whether male or female, then he/she will get one-sixth.

#### **Evidence:**

"وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ"

“And [the deceased] has a brother or a sister, then each one of them will get one-sixth”

[al-Nisaa (4:12)]

#### **Examples:**

F Brother	Residue
U Brother	$\frac{1}{6}$

F Brother	Residue
U Sister	$\frac{1}{6}$

#### **Benefit:**

There are several instances where the uterine siblings are excluded from the general rules of inheritance, for example:

- 1) In the chapter of blocking (Hajab), according to the principle of connection, all those heirs who relate to the deceased through the connection of someone else, will get blocked when that

connecting relative is present. However, even though the uterine siblings relate to the deceased through the connection of the mother, but they do not get blocked even with the presence of the mother.

- 2) The heirs of the deceased who are present in the same level and are considered to be brothers and sisters, will become the 'asabah (Residuaries); and the male among them will get twice the share of the female. However, in the case of uterine siblings, brothers and sisters do not become 'asabah, rather they both get an equal share from the fixed share category (Fardh).
- 3) In the hawaashi group, a male hawaashi will block (mahjoob) a more distant male or female hawaashi than him. However, no one from the hawaashi group can block the uterine siblings, similarly, the uterine siblings also cannot block anyone else.
- 4) In the hawaashi group, the sisters of the deceased become 'asabah ma' al-ghayr with the female descendant of the deceased and will get the residue of the estate. However, within the hawaashi, the uterine siblings of the deceased do not become 'asabah ma' al-ghayr with the female descendant of the deceased, rather a female descendant will cause the uterine siblings to be blocked (mahjoob).

The evidences for all these exceptions is that the Qur'an has made a special mention of the uterine siblings and their specific cases are also clarified. That is why, because of the presence of specific evidences for them, their matter is excluded from the general principles.

## THE SHARE OF FULL SISTER (أخت شقيقة)

Cases:

1- <b>Blocked</b>	<b>Blocker Exists</b>	If a male from the furoo' (descendants) or Usool (ascendants) exists, she will be blocked.
2- <b>'Asabah bil-Ghayr</b>	<b>'Aasib Exists</b>	A blocker does not exist, and an 'aasib i.e. a full brother exists.
3- <b>'Asabah ma' al-Ghayr</b>	<b>A female descendant Exists</b>	None of the above cases are true (No Haajib & No 'Aasib exist), and a female descendant exists.
4- <b>Two-Thirds (2/3)</b>	<b>Plural</b>	None of the above cases are true (No Haajib, No 'Aasib exist and she does not become 'asabah ma' al-ghayr), and they (i.e. full sisters) are more than one.
5- <b>One-Half</b>	<b>Singular</b>	None of the above cases are true (No Haajib, No 'Aasib exist and she does not become 'asabah ma' al-ghayr), and she herself (i.e. the full sister) is only one in number.

### Explanation:

Just like the furoo' (descendants), the female in the hawaashi group also have three fundamental cases, i.e. three cases are common between the females of both the furoo and hawaashi group. One being of ta'seeb bil-ghayr (becoming Residuary with another), the second of receiving two-thirds in case of plurality, and the third case of receiving one-half in case of singularity. However, the matter of uterine siblings is an exception.

- ❖ Therefore, with the exception of uterine siblings, these three cases related to all the females of the furoo' and hawaashi group should be kept in mind.
- ❖ Another thing to keep in mind besides this is that any female that becomes an heir through the connection of someone else, then her fourth case would be that of being blocked (Mahjoob) [i.e. when the connecting relative is present].
- ❖ In light of the hadeeth of Ibn Mas'ood (radiallah anhu) (page 81), it should also be kept in mind that with the presence of a female descendant of the deceased, the sisters of the deceased will become 'asabah ma' al-ghayr i.e. they will be eligible to receive the residue of the estate.

Similarly, with the exception of uterine sibling, these five cases are common between both types of sisters, i.e. full sister (أخت شقيقة) and consanguine sister (أخت لأب) – first: ta'seeb bil-ghayr (Residuary with another), second: two-thirds in case of plurality, third: one-half in case of singularity, fourth: blocked in case of connecting relative's presence, fifth: 'asabah ma' al-ghayr with the presence of a female descendant.

The reader should try to memorize all of these five cases according to the method and order mentioned above [in the table]. The benefit of this order would be that once the first available case is established, the next cases would not even be applicable. Moreover, in order for a subsequent case to be established, any of the earlier cases must be non-existent. Like this, one would also be able to memorize the conditions of each case.

### ➤ **First Case: Blocked (محجوب):**

If a male from the Usool or Furoo' exists, such as a son or grandson, a father or a grandfather, then the full sister will be blocked (Mahjoob).

### **Evidence:**

The evidence for this has passed above in the explanation of the verse of kalaalah under the discussion of uterine siblings.

**Examples:**

Father	Residue
Daughter	$\frac{1}{2}$
F Sister	X

Son	Residue
Mother	$\frac{1}{6}$
F Sister	X

➤ **Second Case: ‘Asabah bil-Ghayr (عصبة بالغير):**

When the full sister (أخت شقيقة) of the deceased is present with the full brother (أخ شقيق) of her own level, then the full brother (أخ شقيق) will cause her to become an ‘asabah along with him. And both of them will get shares based on the principle: {the share of the male will be twice that of the female}.

The conditions for this case are that:

A blocker (Haajib) does not exist, and an ‘aasib (full brother) does exist.

**Evidence:**

"وَإِنْ كَانُوا إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“If they are brothers and sisters, both male and female, then, the male will get a share equal to that of two females.”

[al-Nisaa (4: 176)]

**Example:**

Heirs	Share	4
Wife	$\frac{1}{4}$	1
F Brother	Residue	2
F Sister		1

### ➤ **Third Case: ‘Asabah ma’ al-Ghayr (عصبة مع الغير):**

When a full sister (أخت شقيقة) is present with a female descendant of the deceased (i.e. daughter or son's daughter), then the full sister becomes ‘asabah ma’ al-ghayr, i.e. she becomes eligible to receive the residue of the estate because of being present alongside the female descendant.

The conditions for this case are that:

A blocker (Haajib) does not exist; an ‘aasib [i.e. full brother] also does not exist, and a female from the descendants does exist such as: a daughter or son's daughter, no matter they are one or many.

### **Evidence:**

The hadeeth of Ibn Mas'ood (radiallah anhu) (see page 81).

According to this hadeeth, the Messenger of Allaah (ﷺ) has declared the full sister to be eligible for the residue of the estate when being there with a female descendant. This means: a full sister, when present with a female descendant would become an ‘asabah. This hadeeth has passed before.

### **Example:**

Wife	$\frac{1}{8}$
Daughter	$\frac{1}{2}$
F Sister	Residue

Husband	$\frac{1}{4}$
Son's Daughter	$\frac{1}{2}$
F Sister	Residue

### ➤ **Fourth Case: Two-Thirds (2/3):**

When none of the above mentioned cases are true, i.e. there is no haajib (blocker), no 'aasib [full brother], and she is unable to become 'asabah ma' al-ghayr [because of there being no female descendant], and if the full sisters are more than one in number, then they will receive two-thirds.

#### **Evidence:**

"فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ"

"If they are two (sisters), they will get two third of what he leaves"

[al-Nisaa (4: 176)]

#### **Example:**

Wife	$\frac{1}{4}$
2 Full Sisters	$\frac{2}{3}$
F Uncle	Residue

### ➤ **Fifth Case: One-Half (1/2):**



When none of the above mentioned cases are true, i.e. there is no haajib (blocker), no 'aasib [full brother], and she is unable to become 'asabah ma' al-ghayr [because of there being no female descendant], and if the full sister is only one in number, then she will receive one-half.

### Evidence:

"قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ"

“Say, “Allah gives you the ruling concerning Kalālah. If a person dies having no child, but he does have a sister, then, she will get one half of what he leaves.”

[al-Nisaa (4: 176)]

### Example:

Wife	$\frac{1}{4}$
Full Sister	$\frac{1}{2}$
F Uncle	Residue

## THE SHARE OF CONSANGUINE SISTER (أخت لأب)

Cases:

1- <b>Blocked</b>	<b>Blocker Exists</b>	<p>She will be blocked if:</p> <ul style="list-style-type: none"> <li>○ A male from the furoo' (descendants) or Usool (ascendants) exists.</li> <li>○ OR A full brother exists,</li> <li>○ OR A full sister has become 'asabah ma' al-ghayr,</li> <li>○ OR more than one full sisters have received all of the two-thirds AND consanguine sister does not have an 'aasib [i.e. a consanguine brother]</li> </ul>
2- <b>'Asabah bil-Ghayr</b>	<b>'Aasib Exists</b>	A blocker does not exist, and an 'aasib i.e. a consanguine brother exists.
3- <b>'Asabah ma' al-Ghayr</b>	<b>A female descendant Exists</b>	None of the above cases are true (No Haajib & No 'Aasib exist), and a female descendant exists.
4- <b>One-Sixth (1/6)</b>	<b>A single full sister receiving one-half exists</b>	None of the above cases are true (No Haajib, No 'Aasib exist, and she does not become 'asabah ma' al-ghayr) and a full sister receiving one-half exists
5- <b>Two-Thirds (2/3)</b>	<b>Plural</b>	None of the above cases are true (No Haajib, No 'Aasib exist; she does not become 'asabah ma' al-ghayr, and a full sister receiving one-half does not exist), and they (i.e. consanguine sisters) are more than one.
6- <b>One-Half</b>	<b>Singular</b>	None of the above cases are true (No Haajib, No 'Aasib exist; she does not become 'asabah ma' al-ghayr and a full sister receiving one-half does not exist), and she herself (i.e. the consanguine sister) is only one in number.

## Explanation:

The five cases that are mentioned under full sister (أخت شقيقة) do also hold true for a consanguine sister (أخت لأب).

And the consanguine sister (أخت لأب) has one additional case added with her (i.e. receiving one-sixth for the completion of two-thirds). In essence, this case presents itself with a distant sister [i.e. consanguine sister] when a [single] sister closer than her has already received one-half. Since in this case, not all of the two-thirds assigned to the sister category is spent, rather one-sixth is left behind after the subtraction of one-half from it, so if there is a distant sister present then the remaining one-sixth will be given to her.

However, the full sister (أخت شقيقة) does not have this case, i.e. a full sister cannot get the remaining one-sixth because there is no other sister closer than her who receives one-half. As for [receiving the remaining one-sixth from] a daughter (بنت), then a sister cannot come under the meaning of a daughter, as both of their groups are different. Therefore, the one-sixth remaining from a daughter can only go to a [distant] daughter, not to a sister. Moreover, a sister does not even remain among the *ashaab ul-furoodh* (fixed sharer) with the presence of a daughter, rather she becomes 'asabah ma' al-ghayr with a daughter and becomes eligible to receive the residue of the estate.

In short, there are a total of six cases for a consanguine sister. The details of each are as follows:

### ➤ First Case: Blocked (محجوب):

The blockers that can block a consanguine sister are of two types:

- 1) Those who can strip her of being eligible in the first place.
- 2) Those who deprive her of a share because there is nothing left

#### First:

If a male from the *Usool* or *Furoo'* exists, or a full brother (أخ شقيق) exists, or a full sister (أخت شقيقة) has become 'asabah ma' al-ghayr, then

the eligibility of a consanguine sister (أخت لأب) does not remain and she gets blocked from the root itself.

### Evidence:

The evidences for a male from the Usool or Furoo' being a haajib (blocker) have passed before.

The evidence for a full brother (أخ شقيق) being a blocker is the general principle extracted from the Qur'an and Sunnah as it has been discussed under the discussion of Hajab (Blocking) (see page 56-57).

The evidence for a full sister who becomes 'asabah ma' al-ghayr being a blocker is the hadeeth of Ibn Mas'ood (radiallah anhu) (page 81), because according to this hadeeth, a full sister in case of becoming 'asabah ma' al-ghayr becomes eligible to receive all of the residue of the estate, therefore, there is no question of anything remaining for a distant heir.

### Examples:

Wife	$\frac{1}{8}$	Wife	$\frac{1}{4}$	Wife	$\frac{1}{4}$	Daughter	$\frac{1}{2}$
Son	Residue	Father	Residue	F Brother	Residue	F Sister	Residue
C Sister	X	C Sister	X	C Sister	X	C Sister	X

### Second:

If there is more than one full sister (أخت شقيقة) receiving two-thirds, then in this case the eligibility of the consanguine sister (أخت لأب) does not drop, but she does not have anything left from the fixed share (Fardh) to receive. That is because the maximum share assigned to the sister category from the hawaashi group is two-thirds and when that is spent completely, there is nothing left from their fixed share that could be given to another distant sister as fixed share.

### Evidence:

The evidence for the deprivation of consanguine sister (أخت لأب) in this case is that the entire two-thirds is spent on the sisters of higher level.

Since in this case there is no possibility for a distant sister to get anything else as a fixed share, any heirs that create this situation are called haajib (Blocker). We have applied the meaning of being a blocker on them.

### Example:

Wife	$\frac{1}{4}$
2 Full Sisters	$\frac{2}{3}$
C Sister	X
F Uncle	Residue

### ➤ Second Case: 'Asabah bil-Ghayr (عصبة بالغير):

When the consanguine sister (أخت لأب) of the deceased is present along with the brother of the same level as her (i.e. consanguine brother), then the consanguine brother (أخ لأب) will cause her to become 'asabah with him. And both of them will get shares based on the principle: {the share of the male will be twice that of the female}.

The conditions for this case are that:

A blocker does not exist and an 'Aasib (Consanguine Brother) does exist.

### Evidence:

"وَإِنْ كَانُوا إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

"If they are brothers and sisters, both male and female, then, the male will get a share equal to that of two females."

[al-Nisaa (4: 176)]

Consanguine Siblings are included in the generality of this verse.

### Example:

Wife	$\frac{1}{4}$
C Brother	Residue
C Sister	

### ➤ Third Case: 'Asabah ma' al-Ghayr (عصبة مع الغير):

When a consanguine sister (أخت لأب) is present with a female descendant of the deceased (i.e. daughter or son's daughter), then the consanguine sister becomes 'asabah ma' al-ghayr, i.e. she becomes eligible to receive the residue of the estate because of being present alongside the female descendant.

The conditions for this case are that:

A blocker (Haajib) does not exist; an 'aasib [i.e. consanguine brother] does not exist and a full sister receiving one-half also does not exist; and a female from the descendants does exist such as: a daughter or son's daughter, no matter they are one or many.

### Evidence:

The hadeeth of Ibn Mas'ood (radiallah anhu) [Saheeh al-Bukhaari: 6736] (see page 81).

According to this hadeeth, the Messenger of Allaah (ﷺ) has declared the full sister to be eligible for the residue of the estate when being there with a female descendant.

### Example:

Daughter	$\frac{1}{2}$
C Sister	Residue

### ➤ Fourth Case: One-Sixth (1/6):

In case of multiplicity, the Qur'an has specified the share of Non-Uterine Sisters (i.e. Full and Consanguine Sisters) to be "two-thirds". Therefore, if a full sister (أخت شقيقة) being of higher level than a consanguine sister (أخت لأب) receives one-half as a fixed share (Fardh), then only one-half out of the two-thirds given to more than one sisters gets assigned, and one-sixth of the fixed share still remains behind. So that will be given to a distant sister i.e. consanguine sister (أخت لأب) (no matter she is one or many), so that the entire "two-thirds" of the sister category gets assigned to the sisters. That is why in this case, the reason for giving one-sixth to the consanguine sister is said to be the completion of two-thirds.

For example, if a deceased had a mother, a full sister, a consanguine sister, and a uterine brother, then:

Mother	$\frac{1}{6}$
F Sister	$\frac{1}{2}$
C Sister	$\frac{1}{6}$
U Brother	$\frac{1}{6}$

Mother will get one-sixth, uterine brother will get one-sixth, full sister will get one-half, and the other consanguine sister will also get one-

sixth. Like this, the combined share of both the sisters would be two-thirds (one-half + one-sixth).

**Note:**

There are a total of four one-sixths in a two-thirds. And one-half has three one-sixths in it. If we subtract one-half i.e. three one-sixths from a two-thirds i.e. four one-sixths then we get one one-sixth remaining. An explanation to this has already passed before under the discussion of the granddaughter's share. See: (page 80).

The conditions for this case are that:

Neither a Haajib (blocker) nor an 'aasib [i.e. consanguine brother] exists, and a full sister receiving one-half exists.

**Evidence:**

The analogy of daughters mentioned in the hadeeth of Ibn Mas'ood (radiallah anhu) on this case [Saheeh Bukhaari: 6736].

According to the hadeeth of Ibn Mas'ood (radiallah anhu) (page 81), when a daughter receiving one-half is present, a son's daughter is given one-sixth for the completion of two-thirds, because the combined share of the daughter category is said to be two-thirds.

Similarly, the combined share of the sister category is said to be two-thirds, therefore, when a full sister receiving one-half is present, the consanguine sister will also be given one-sixth for the completion of two-thirds.

➤ **Fifth Case: Two-Thirds (2/3):**

When none of the above mentioned cases are true, i.e. a blocker, an 'aasib [i.e. consanguine brother], and a full sister receiving one-half do not exist, and she [i.e. the consanguine sister] would not become 'asabah ma' al-ghayr; and the consanguine sisters are more than one, then they will get two-thirds.

**Evidence:**



"فَإِنْ كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ"

“If they are two (sisters), they will get two third of what he leaves”

[al-Nisaa (4: 176)]

A consanguine sister is included in the generality of this verse.

### Example:

Wife	$\frac{1}{4}$
2 C Sisters	$\frac{2}{3}$
F Uncle	Residue

### ➤ Sixth Case: One-Half (1/2):

When none of the above cases are true, i.e. a blocker, an ‘aasib [i.e. consanguine brother], a full sister receiving one-half do not exist, and she [i.e. the consanguine sister] would not become ‘asabah ma’ al-ghayr; and the consanguine sister is only one in number, then she will get one-half.

### Evidence:

" قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ

“Say, “Allah gives you the ruling concerning Kalālah. If a person dies having no child, but he does have a sister, then, she will get one half of what he leaves”

[al-Nisaa (4: 176)]

A consanguine sister is included in the generality of this verse.

**Example:**

Wife	$\frac{1}{4}$
C Sister	$\frac{1}{2}$
F Uncle	Residue

**Exercises:**

- 1- F Brother (أخ ش), U Brother (أخ لأم)
- 2- F Sister (أخت ش), C Sister (أخت لأب), F Uncle (عم ش)
- 3- Mother (أم), Daughter (بنت), F Sister (أخت ش).
- 4- Wife (زوجة), Daughter (بنت), C Sister (أخت لأب).
- 5- F Brother (أخ ش), F Sister (أخت ش), U Sister (أخت لأم).
- 6- 2 U Brothers (٢ أخ لأم), F Sister (أخت ش), C Sister (أخت لأب).
- 7- Wife (زوجة), Daughter (بنت), F Sister (أخت ش), C Sister (أخت لأب).
- 8- Mother (أم), 2 F Sisters (٢ أخت ش), C Sister (أخت لأب), U Brother (أخ لأم).

# PART THREE: BASIFICATION (تأصيل) AND CORRECTION (تصحيح)

## BASIFICATION (تأصيل) / THE BASE FIGURE (أصل المسألة)

### Definition of Mas'ala (مسألة):

With respect to inheritance, mas'ala refers to the way the shares are distributed among the heirs of the deceased.

### Definition of Asal Mas'ala (أصل المسألة) (The Base Figure):

The lowest number that will allow the shares of inheritance to be represented by whole numbers, i.e. without fraction.

[In other words, it's the number of divisions the wealth of the deceased will be divided into in order to give every heir a number of divisions represented by a whole number]

### The Method of Knowing the Asal Mas'ala:

There are many methods of knowing the asal mas'ala. The easiest of these methods is given below.

#### ❖ First:

If a case involves only the 'asabah [i.e. no fixed sharers], then there are three rules of knowing the asal mas'ala, which are as follows:

- A) If there is only one 'asabah inheriting everything, then there is no need to know the asal mas'ala.
- B) If the 'asabah are more than one and they are all males (or all females) then the total number of individuals will be the asal mas'ala.
- C) If the 'asabah are more than one and they include both males and females, then we'll count every male twice and every female once and the sum of all that will be the asal mas'ala [Trans: For e.g. if there are 2 males and 2 females then every male will be counted twice. In other words, every male or the sum of all males will be multiplied by 2, while the number of females will remain the same. So, 2 males \* 2 = 4, so 4 + 2 = 6. Hence, the asal mas'ala would be 6].

### ❖ Second:

If a case involves only the fixed sharers (ashaab ul-furoodh) or both the fixed sharers (ashaab ul-furoodh) and 'asabah together, then there are three rules of knowing the asal mas'ala, which are as follows:

- A) If there is only one fixed sharer then the denominator of his/her share would be the asal mas'ala [Trans: For e.g. If there is only a wife as a fixed sharer whose share is one-eighth (1/8) then the asal mas'ala would be 8, i.e. the denominator of her share].
- B) If there is more than one fixed sharer (ashaab ul-furoodh) and their shares are all from the **"halves"** group [see page 39] or all from the **"thirds"** group, then the biggest denominator will be the asal mas'ala.

[Translator: For example, if the shares are:  $\frac{1}{2}$  and  $\frac{1}{4}$  then the biggest denominator i.e. 4 would be the asal mas'ala.

Alternatively, if the shares are:  $\frac{1}{3}$  and  $\frac{1}{6}$  then the asal mas'ala would be 6. The first example is of all halves and the second

example is of all thirds].

- C) If there is more than one fixed sharer (ashaab ul-furoodh) and the shares of some are from the “**halves**” group while the shares of some are from the “**thirds**” group, then the biggest denominator from the “**halves**” category of shares will be multiplied by three (3) and the result will be the asal mas’ala.

[Translator: For example, if the shares are:  $\frac{1}{2}, \frac{1}{3}, \frac{1}{4}$ , then  $\frac{1}{2}$  and  $\frac{1}{4}$  are from the “halves” group while  $\frac{1}{3}$  is from the “thirds” group. So within the halves group, the largest denominator is 4. We will multiply 4 by 3, and we get 12. So 12 would be the asal mas’ala in this case.] So:

If the biggest denominator is 2, then	$2 * 3 = 6$	Asal Mas’ala would be 6.
If the biggest denominator is 4, then	$4 * 3 = 12$	Asal Mas’ala would be 12.
If the biggest denominator is 8, then	$8 * 3 = 24$	Asal Mas’ala would be 24.

## Examples of the First Category:

### (Example of A from the First Category)

A man dies and leaves only a son among his heirs.

All of the wealth will go to the son. There is no need of basification in this case.

### (Example of B from the First Category)

A man dies and leaves behind two sons.

Heirs	Share	2
2 Sons	2	2

**(Example of C from the First Category)**

A man dies and leaves behind a son and a daughter among his heirs.

Heirs	Share	3
Son	2	2
Daughter	1	1

[Trans: The top right number in the table represents the asal mas'ala or the base figure.]

**Examples of the Second Category:****(1<sup>st</sup> Example of A from the Second Category)**

A man dies and leaves behind a wife and a full brother among his heirs.

Heirs	Share	4
Wife	$\frac{1}{4}$	1
F Brother	Residue	3

**(2<sup>nd</sup> Example of A from the Second Category)**

A woman dies and leaves behind a husband and a son among her heirs.

Heirs	Share	4
Husband	$\frac{1}{4}$	1
Son	Residue	3

**(1<sup>st</sup> Example of B from the Second Category)**

A man dies and leaves behind a wife, a daughter, and a full brother.

Heirs	Share	8
Wife	$\frac{1}{8}$	1
Daughter	$\frac{1}{2}$	4
F Brother	Residue	3

**(2<sup>nd</sup> Example of B from the Second Category)**

A man dies and leaves behind two uterine sisters and two consanguine sisters.

Heirs	Share	3
2 U Sisters	$\frac{1}{3}$	1
2 C Sisters	$\frac{2}{3}$	2

**(3<sup>rd</sup> Example of B from the Second Category)**

A man dies and leaves behind a mother, a father, and a son.

Heirs	Share	6
Mother	$\frac{1}{6}$	1
Father	$\frac{1}{6}$	1
Son	Residue	4

**(4<sup>th</sup> Example of B from the Second Category)**

A man dies and leaves behind 2 daughters, a mother, and a Full Brother.

Heirs	Share	6
2 Daughters	$\frac{2}{3}$	4
Mother	$\frac{1}{6}$	1
F Brother	Residue	1

**(1<sup>st</sup> Example of C from the Second Category)**

A man dies and leaves behind a daughter, a son's daughter, a mother and a father.

Heirs	Share	6
Daughter	$\frac{1}{2}$	3
Son's Daughter	$\frac{1}{6}$	1
Mother	$\frac{1}{6}$	1
Father	$\frac{1}{6}$	1

**(2<sup>nd</sup> Example of C from the Second Category)**

A woman dies and leaves behind a husband, a son, a father, and a mother.



Heirs	Share	12
Husband	$\frac{1}{4}$	3
Son	Residue	5
Father	$\frac{1}{6}$	2
Mother	$\frac{1}{6}$	2

### (3<sup>rd</sup> Example of C from the Second Category)

A woman dies and leaves behind a husband, a daughter, a mother, and a Full Brother.

Heirs	Share	12
Husband	$\frac{1}{4}$	3
Daughter	$\frac{1}{2}$	6
Mother	$\frac{1}{6}$	2
F Brother	Residue	1

### (4<sup>th</sup> Example of C from the Second Category)

A man dies and leaves behind a wife, a son, and a mother.

Heirs	Share	24
Wife	$\frac{1}{8}$	3
Son	Residue	17
Mother	$\frac{1}{6}$	4

### (5<sup>th</sup> Example of C from the Second Category)

A man dies and leaves behind a wife, two daughters, a mother, and a Full Brother.

Heirs	Share	24
Wife	$\frac{1}{8}$	3
2 Daughters	$\frac{2}{3}$	16
Mother	$\frac{1}{6}$	4
F Brother	Residue	1

## The Method of Distributing Shares among the Heirs based on the Asal Mas'ala (Base Figure):

In the examples given above, after the asal mas'ala was calculated, the shares of the heirs have also been distributed accordingly.

The method of doing that is to **divide** the **asal mas'ala** with the **denominator** of a given heir's share. The resulting number will then be **multiplied** by the **numerator** of the share. What you get as a result is the share of a given heir.

We have already discussed above (page 39) that when the fixed shares are written in the form of a fraction, they comprise of a Denominator and a Numerator.

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**Benefit: The method of writing the shares in the form of a percentage:**

After calculating the asal mas'ala (base figure) and the shares of the heirs based on the asal mas'ala, the calculated whole number share of every heir will be taken and two zeros will be added in its front. Then that will be divided by the asal mas'ala. The resulting number will be written with an addition of percent sign (%).

For example: If the asal mas'ala in a case is 2, and the share of the husband is 1, then the share of the husband (i.e. 1) will become 100 [i.e. by adding two zeros], and it will be divided by the asal mas'ala i.e. 2. [So,  $100/2 = 50$ ]. The result will be 50 and it will be written as: 50%.

**[Note:** When rounding a decimal number to a nearest tenth or hundredth place, we look at the number after it and if that is equal to or larger than 5, we will increment the number before it by one count. For example, 66.666 will be written as 66.67].

## CORRECTION (تصحیح)

### Linguistic Meaning:

The linguistic meaning of Tasheeh is to correct.

### Technical Meaning:

In terms of inheritance, tasheeh means: if a group of heirs have a common share, and that share is unable to be divided among the members of the group without fraction, then that share is converted into another number by which that share can be divided among all the members of the group without fraction.

### Explanation:

When all heirs are assigned their share using the asal mas'ala, sometimes a single share gets assigned to a group of individuals. Then that one specific share is unable to be divided among all the members of the group without fraction.

To solve this problem, that particular share is multiplied by a suitable number and is thus converted into a new share that can be divided among all the members of the group without fraction. Then the shares of all the other heirs as well as the asal mas'ala are also multiplied by the same suitable number, so that the share of everyone as well as the asal mas'ala are converted accordingly and no change occurs in the actual result.

This means that through the process of Tasheeh (Correction), we simply broke up the asal mas'ala and the shares of the heirs into several more parts, but their quantity remained the same. Try to understand this with this example: Suppose you have a bill/note of one hundred, and you want to divide it among two people equally, so you will break it and get its change, for example, in exchange for the one bill of one hundred, you will get two bills of fifty. Now you changed one bill of one hundred into two parts, but the actual quantity of one hundred remained the same. The same is the case in

tasheeh. You may even say, in other words, that in inheritance, tasheeh means to make a change.

## **The Method of doing Tasheeh (Correction):**

When the share of a group of heirs is not able to be divided among all its members without fraction, then we will see with what number to multiply the share of the group so that it will become possible for us to divide their share without fraction? After choosing the most suitable and the smallest number possible to multiply the share with, we will multiply the shares of all of the heirs as well as the asal mas'ala with the same number. This is the basic method of tasheeh (correction).

The group of heirs that needs to be corrected can have a total of three cases, and based on that, it is governed by a total of three rules, which are as follows:

- ❖ **(1) If the quantity of the group's members and the quantity of the share they received are not able to be divided by a common number, then the correction [i.e. the multiplication of all shares and asal mas'ala] would be done with the number of group's members.**
- ❖ **(2) If both of the numbers (i.e. the quantity of the group's members and the quantity of the share they received) can be divided by a common number, then both of them would be divided by the largest possible number, then the tasheeh (correction) would be done by the number obtained by dividing the group's number by the largest possible divisor [i.e. the quotient].**
- ❖ **(3) If tasheeh is required in more than one groups, then after calculating the number by which to do the correction (tasheeh) for each individual group, we will take all those tasheeh numbers of each individual group and calculate the Least Common**

**Multiple (L.C.M)<sup>(13)</sup> of all of the numbers. The resulting number will be used to do the correction (tasheeh) of all groups.**

**Note:** If a group that shares a common share consists of male and female 'asabah like sons and daughters or brothers and sisters, then while counting the number of members in such a group, we will count every female as one and every male as two. For example if there is one son and one daughter in a group, then for the purpose of tasheeh, we will count them to be 3.

(The discussion of "Awl" and "Radd" is coming later. In that, we are to multiply the new asal mas'ala by the tasheeh number, not the old asal mas'ala).

### **Explanation of the First Rule with Example:**

- ❖ (1) If the quantity of the group's members and the quantity of the share they received are not able to be divided by a common number, then the correction [i.e. the multiplication of all shares and asal mas'ala] would be done with the number of group's members.

#### **Example:**

A woman dies and leaves behind a husband and five sons.

Heirs	Share	4 * 5	20
Husband	$\frac{1}{4}$	1 * 5	5
<span style="border: 1px solid black; padding: 2px;">5</span> / Sons	Residue	3 * 5	15

The asal mas'ala (base figure) is 4 and this is the total number of shares. The husband will get one-fourth i.e. 1 share. The rest of the 3 shares will go to the 5 sons. Here, the share of the entire group of five

sons is 3 which cannot be divided among all of the five individuals without fraction, hence, tasheeh (correction) is required.

Since here the number of the people in the group is 5 and the share they are receiving is 3, both of these cannot be divided by a common number, therefore, the tasheeh (correction) would be done by the number of members in the group i.e. 5.

The asal mas'ala after the tasheeh (correction) becomes 20. This, now, is the total number of shares [or divisions of the estate], out of which 5 will go to the husband, and 15 to the five sons.

This time, the group of the five sons will get 15 shares. Now this share can be divided among the 5 members without fraction, which means, each son will get 3 shares.

### Explanation of the Second Rule with Examples:

- ❖ (2) If both of the numbers (i.e. the quantity of the group's members and the quantity of the share they received) **can be divided by a common number, then both of them would be divided by the largest possible number, then the tasheeh (correction) would be done by the number obtained by dividing the group's number by the largest possible divisor [i.e. the quotient].**

#### **Example # 1:**

A woman dies and leaves behind a husband and six sons.

Heirs	Share	$4 * 2$	8
Husband	$\frac{1}{4}$	$1 * 2$	2
<del>6</del> 2 / Sons	Residue	<del>3</del> 1 * 2	6

The asal mas'ala (base figure) is 4 and this is the total number of shares. The husband will get one-fourth i.e. 1 share. The rest of the 3

shares will go to the 6 sons. Here, the share of the entire group of six sons is 3 which cannot be divided among all of the six individuals without fraction, hence, tasheeh (correction) is required.

Here the number of the people in the group is 6 and the share they are receiving is 3, both of these CAN be divided by a common number which is 3, and the number of the group i.e. 6 is divided into 2, therefore, the tasheeh (correction) would be done by 2.

The asal mas'ala after the tasheeh (correction) becomes 8. This, now, is the total number of shares [or divisions of the estate], out of which 2 will go to the husband, and 6 to the six sons.

This time, the group of the six sons will get 6 shares. Now this share can be divided among the 6 members without fraction, which means, each son will get 1 share.

### Example # 2:

A man dies and leaves behind his parents and eight sons:

Heirs	Share	$6 * 2$	12
Father	$\frac{1}{6}$	$1 * 2$	2
Mother	$\frac{1}{6}$	$1 * 2$	2
<del>8</del> 2 / Sons	Residue	<del>4</del> 1 * 2	8

The asal mas'ala (base figure) is 6 and this is the total number of shares. The father will get one-sixth i.e. 1 share. The mother will also get one-sixth i.e. 1 share. The rest of the 4 shares will go to the 8 sons. Here, the share of the entire group of eight sons is 4 which cannot be divided among all of the eight individuals without fraction, hence, tasheeh (correction) is required.



Here the number of the people in the group is 8 and the share they are receiving is 4, both of these CAN be divided by a common number which is 4, and the number of the group i.e. 8 is divided into 2, therefore, the tasheeh (correction) would be done by 2.

The asal mas'ala after the tasheeh (correction) becomes 12. This, now, is the total number of shares [or divisions of the estate], out of which 2 will go to the father, 2 will go to the mother, and 8 to the eight sons.

This time, the group of the eight sons will get 8 shares. Now this share can be divided among the 8 members without fraction, which means, each son will get 1 share.

### Explanation of the Third Rule with Examples:

- ❖ (3) If tasheeh is required in more than one group, then after calculating the number by which to do the correction (tasheeh) for each individual group, we will take all those tasheeh numbers of each individual group and calculate the Least Common Multiple (L.C.M) of all of the numbers. The resulting number will be used to do the correction (tasheeh) of all groups.

#### **Example # 1:**

A woman dies and leaves behind a husband, two full brothers, and six daughters.

Heirs	Share	$12 * 6$	72
Husband	$\frac{1}{4}$	$3 * 6$	18
<span style="border: 1px solid black; padding: 2px;">2</span> 2 / F Brothers	Residue	<span style="border: 1px solid black; padding: 2px;">1</span> * 6	6
<span style="border: 1px solid black; padding: 2px;"><del>6</del></span> 3 / Daughters	$\frac{2}{3}$	<span style="border: 1px solid black; padding: 2px;"><del>8</del></span> $4 * 6$	48

The asal mas'ala (base figure) is 12 and this is the total number of shares. The husband will get one-fourth i.e. 3 shares. The two full brothers will get the rest i.e. 1 share. And the six daughters will get 8 shares. Here, the share of both the groups of brothers and daughters cannot be divided among all of their members without fraction.

So what we did here is to calculate the tasheeh (correction) numbers for both the groups based on the previous method. The tasheeh number for the group of brothers is 2 and the tasheeh number for the group of daughters is 3.

After this, we calculated the Least Common Multiple (L.C.M) of the tasheeh numbers of both the groups, i.e. 2 & 3, which comes out to be 6. Therefore, we made the tasheeh (correction) of all the groups by 6.

The asal mas'ala after the tasheeh (correction) becomes 72. This, now, is the total number of shares [or divisions of the estate], out of which husband will get one-fourth i.e. 18 shares, the two full brothers will get the remaining 6 shares, and the six daughters will get 48 shares.

This time, the group of the two full brothers got 6 shares and this share can now be divided among the two members of the group without fraction, which means, each brother will get 3 shares.

And the group of the six daughters got 48 shares, and this share can also now be divided among the six members of the group without fraction, which means, every daughter will get 8 shares.

### **Example # 2:**

A man dies and leaves behind two full brothers, four full sisters, one uterine brother, and two grandmothers (i.e. paternal and maternal grandmothers).

Heirs	Share	$6 * 2$	12
U Brother	$\frac{1}{6}$	$1 * 2$	2
$\boxed{2}$ 2 / Grandmothers	$\frac{1}{6}$	$\boxed{1} * 2$	2
$\left[ \begin{array}{l} 2 / \text{ F Brothers} \\ 4 / \text{ F Sisters} \end{array} \right] \cancel{\boxed{8}}/2$	Residue	$\cancel{\boxed{4}}_1 * 2$	8

Like the previous example, tasheeh is done here too. However, in this example, in the group of brothers and sisters, every brother is counted twice and every sister is counted once, and based on that the number of the group is considered to be 8.

Here too, two of the groups need tasheeh. The tasheeh number for both the groups is 2. That is why the L.C.M. is 2 itself. Therefore, the tasheeh will be done by 2.

This time, the group of both the grandmothers got 2 shares and this can now be divided among the members of the group without fraction, which means, the maternal grandmother will receive 1 share and the paternal grandmother will receive 1 share.

And the group of full brothers and sisters got 8 shares and this too can now be divided among the members of the group without fraction, which means, every brother will get 2 shares and every sister will get 1 share.

### Example # 3:

A man dies and leaves behind 2 wives, 3 uterine brothers, and 3 full brothers.

Heirs	Share	12 * 6	72
$\boxed{2}$ 2 / Wives	$\frac{1}{4}$	$\boxed{3} * 6$	18
$\boxed{3}$ 3 / U Brothers	$\frac{1}{3}$	$\boxed{4} * 6$	24
$\boxed{3}$ 3 / F Brothers	Residue	$\boxed{5} * 6$	30

Like the previous example, tasheeh is done here too. We have three groups here and all three of them require tasheeh.

The tasheeh numbers of all three groups are: (2), (3), and (3).

The L.C.M of these three numbers is 6. Therefore, tasheeh will be done by 6.

This time, the members of every group is able to get the share without fraction. The new asal mas'ala is 72 which is now the new division of the estate.

The group of wives will receive 18 shares, which can now be divided among the 2 members of this group without fraction, which means, each wife will get 9 shares.

The group of uterine brothers will get 24 shares, which can now be divided among the 3 members of this group without fraction, which means, each uterine brother will get 8 shares.

The group of full brothers will receive 30 shares, which can now be divided among the 3 members of this group without fraction, which means, each full brother will get 10 shares.

## The Method of Calculating the L.C.M:

- 1) List all numbers [you want to calculate the L.C.M of] in one line.
- 2) Write one number on the left corner and try to divide as many of the listed numbers with it as possible. Underneath the number

that gets divided by the number on the left, write the result of that division [i.e. the number on which it was divided i.e. the quotient]. The number that could not be divided by the number on the left, write that number as it is in the next line.

- 3) Now once again, write a number on the left corner and try to divide as many of the numbers listed in the next line with it as possible, as described above.
- 4) Continue doing this with every line until all of the numbers reduce down to 1.
- 5) Now on the left column, we have all of those numbers which were used to divide the listed numbers in every row. Take all of these numbers and multiply them with each other. The end result will be the L.C.M.

**Example:** Calculate the L.C.M of 3, 4, and 8.

4	3	<del>4</del>	<del>8</del>
2	3	1	<del>2</del>
3	<del>3</del>	1	1
	1	1	1

$$4 * 2 * 3 = 24$$

**Note:** If a group of numbers are such that any two of them cannot be divided by a third number, then we'd continue multiplying one of them with the other and the end result will be the L.C.M, for example the L.C.M of 2, 3, and 5 is 30 (i.e.  $2 * 3 * 5$ ).

## Exercises:

Solve the following cases and make appropriate tasheeh (correction):

- 1- 2 Wives (٢ زوجة), Son (ابن)
- 2- Husband (زوج), 6 Sons (٦ ابن)
- 3- Husband (زوج), 2 F Brothers (٢ أخ ش)
- 4- 3 Wives (٣ زوجة), 7 Sons (٧ ابن)
- 5- Husband (زوج), 9 Daughters (٩ بنت), F Brother (أخ ش)
- 6- Wife (زوجة), 5 Sons (٥ ابن), 4 Daughters (٤ بنت)
- 7- 2 Wives (٢ زوجة), 2 F Brothers (٢ أخ ش), Mother (أم)
- 8- 2 Wives (٢ زوجة), Son (ابن), Daughter (بنت)
- 9- 3 Daughters (٣ بنت), 2 F Brothers (٢ أخ ش), U Brother (أخ لأم)

## PART FOUR: TYPES OF INHERITANCE CASES

There are three types of the cases of inheritance:

- 1) The Case of Equilibrium (المسألة العادلة)
- 2) The Case of Excess (المسألة العائلة)
- 3) The Case of Deficiency (المسألة الناقصة)

### THE CASE OF EQUILIBRIUM (المسألة العادلة)

#### Linguistic Meaning:

‘Aadilah comes from the word ‘Adl which means balanced and equal.

#### Technical Meaning:

If in some case, the sum of the shares of ashaab ul-faraa'idh (fixed sharers) is equal to the exact amount of the asal mas'ala; i.e. it is neither more nor less than the asal mas'ala, then such a case is called "The Case of Equilibrium (المسألة العادلة)".

[In other words, when the entire estate gets equally distributed among the fixed sharers and there is nothing left behind.]

For example, a woman dies and leaves behind a husband and a full sister:

Heirs	Share	2
Husband	$\frac{1}{2}$	1
F Sister	$\frac{1}{2}$	1

The asal mas'ala is 2 and it is the total number of shares. The husband receives 1 share and the full sister receives 1 share. In this case, the sum of the shares of the heirs ( $1 + 1 = 2$ ) is the exact amount of the asal mas'ala, neither any more nor any less.

## THE CASE OF EXCESS (المسألة العائلة / العول)

### Linguistic Meaning:

'Aa'ilah comes from 'Awl which means to exceed [the limit].

### Technical Meaning:

If in some case, the sum of the shares of ashaab ul-fraa'idh (fixed sharers) exceeds the amount of the asal mas'ala, then such a case is called "The Case of Excess (المسألة العائلة)". Some people also call it "The Case of Surplus (المسألة الزائدة)".

[In other words, when the estate cannot be equally distributed among the fixed sharers rather the number of fixed sharers or the amount of their fixed shares is more than the available wealth]

For example: a woman dies and leaves behind a husband and two full sisters.

Heirs	Share	6 with excess 7
Husband	$\frac{1}{2}$	3
2 F Sisters	$\frac{2}{3}$	4

The asal mas'ala is 6 and it is the total number of shares. The husband is entitled to 3 shares and the two full sisters are entitled to 4 shares [based on this asal mas'ala]. This means, 7 shares are required but the asal mas'ala has only given us 6 shares; i.e. the sum of the shares of heirs ( $3 + 4 = 7$ ) exceeds the asal mas'ala of 6.

**Rule:**

**In the case of excess (المسألة العائلة), the original asal mas'ala is canceled out [or rendered void]; and in its place, the total sum of all the shares is rendered to be the new asal mas'ala.**

In the example mentioned above, the asal mas'ala is 6. We would cancel this asal mas'ala and make the total sum of shares, i.e. 7, to be the new asal mas'ala, and it will be written like this: (٦ بالعول ٧), [the English equivalent of this would be (6 with excess 7)].

Since in 'Awl case (i.e. the case of excess), the shares required for the ashaab ul-fraa'idh (fixed sharers) exceed the asal mas'ala [Trans: This means, the quantity of fixed shares exceeds the quantity that is available], that is why the sum of their shares is made the new asal mas'ala [Trans: This means, instead of dividing the estate into the number of shares that are fixed, we are now dividing the estate in more divisions than before]. Based on this, each heir will have his/her share reduced proportionate to the amount of his share, and everyone will receive less compared to their actual share.

**[Translator's Note:** (In the issue of 'Awl), it is not possible to give each of the heirs his or her share in full, because the estate is not sufficient. In that case, justice dictates that the share of each heir should be reduced commensurate with the shortfall in this scenario. So, in the example above, instead of dividing the estate into six equal shares, it is divided into seven equal shares, which is the sum of the shares of all heirs.

So the final division will be as follows:

The husband gets three out of seven shares, instead of six, so the one-half to which he is entitled becomes three-seventh, because of the 'awl process.

Each of the two full sisters gets four shares out of seven, instead of six, so the two-thirds that they are entitled becomes four-seventh, because of the 'awl process.



So we find that the shortfall affects the shares of all of the heirs, and thus justice is served and the problem mentioned is solved. **End Note** <sup>(14)]</sup>

**Benefit:** The Usool ul-masaa'il [plural of asal mas'ala or the Base Figures] in which 'Awl usually occurs are: 6, 12, and 24.

- If the asal mas'ala is 6 then: it can exceed up to 7, 8, 9 and 10. This means, the asal mas'ala of 6 can exceed up to 10 including all the even and odd numbers in between.
- If the asal mas'ala is 12 then: it can exceed to 13, 15, and 17. This means, the asal mas'ala of 12 can exceed up to 17 including only the odd numbers in between.
- If the asal mas'ala is 24 then: it can only exceed to 27.

## Exercises:

- 1- Husband (زوج), 2 F Sisters (أخت ش)
- 2- Husband (زوج), 2 F Sisters (أخت ش), U Brother (أخ لأم)
- 3- Husband (زوج), 2 F Sisters (أخت ش), 2 U Brothers (أخ لأم)
- 4- Husband (زوج), 2 F Sisters (أخت ش), 2 U Siblings (إخوة لأم), Mother (أم)
- 5- Wife (زوجة), 2 F Sisters (أخت ش), U Brother (أخ لأم)
- 6- Wife (زوجة), 2 F Sisters (أخت ش), 2 U Siblings (إخوة لأم)
- 7- Wife (زوجة), 2 F Sisters (أخت ش), 2 U Siblings (إخوة لأم), Mother (أم)
- 8- Wife (زوجة), 2 Daughters (بنت), Mother (أم), Father (أب)

## THE CASE OF DEFFICIENCY / RETURN

### (المسألة الناقصة / الرد)

#### Linguistic Meaning:

Naaqisah comes from Naqs which means to reduce or become less.

#### Technical Meaning:

If in some case, the sum of the shares of ashaab ul-faraa'idh (fixed sharers) is less than the amount of asal mas'ala, then such a case is called "The Case of Deficiency or The Case of Return (المسألة الناقصة / الرد)".

[In other words, when the estate cannot be equally distributed among the fixed sharers rather there remains something behind and the total amount of the fixed shares is less than the available wealth and there is no 'asabah (residuary) to take the residue.]

For example: a man dies and leaves behind a mother and two uterine sisters.

Heirs	Share	6 with return 3
Mother	$\frac{1}{6}$	1
2 U Sisters	$\frac{1}{3}$	2

The asal mas'ala is 6 and this is the total number of shares. The mother receives one-sixth i.e. 1 share, and both of the two uterine sisters receive one-third i.e. 2 shares. So 3 shares still remain behind. This means, the sum of the shares of the heirs ( $1 + 2 = 3$ ) is less than the asal mas'ala of 6.

#### Rule:

**Like the case of Awl (Excess), in the case of Radd (Return) as well, we would cancel out the original asal mas'ala and replace it with the sum of the shares of all heirs as the new asal mas'ala.**

In the example mentioned above, the asal mas'ala is 6, which will be cancelled and replaced with the sum of all shares i.e. 3, as the new asal mas'ala. And it will be written like this: (٦ بالرد ٣), [the English equivalent of which would be: (6 with return 3)].

**Benefit:** If in this case, there is an 'asabah available who is eligible to receive the residue of the estate then we won't even have a case of return, because all of the remaining wealth will go to a rightful Residuary ('Asabah).

## **The Scholarly Dispute on the Case of Return/Deficiency**

Who will be entitled to receive the wealth that remains behind in the case of deficiency? There are three opinions of Scholars on this.

We will discuss all three of the opinions along with their evidences as well as their complications below, and we will also mention the method of solving this issue according to each opinion.

### **❖ First Opinion:**

The remaining wealth will, once again, be returned to all of the heirs. This is an odd (shaadh) opinion and it is the one narrated from Uthmaan (radiallah anhu) as it is mentioned in the books of fiqh. However, we were unable to find any authentic transmission of this opinion.

Shaykh ul-Islaam Ibn Taymiyyah (rahimahullah) has also adopted this stance in some of his Fataawa, see: (Majmoo' al-Fataawa: 31/338).

Among the Scholars of the recent past, Shaykh Abdur Rahman al-Sa'dee (rahimahullah), the author of the Tafseer, has also adopted this opinion that: all of the remaining wealth will be redistributed among the heirs [Irshaad Uli al-Basaa'ir wal-Albaab (p. 248, 249)].

Shaykh Ibn Uthaymeen (rahimahullah) has adopted only a specific scenario of this opinion which is that: if there is only the spouse in a case and there are no dhawul arhaam relatives available, then the remaining wealth will be redistributed among the spouses [Tasheel ul-Fraa'idh: p. 70].

### Evidence:

There are two evidences for this opinion:

**First:** The saying of Allaah's Apostle (ﷺ):

"مَنْ تَرَكَ مَالًا فَلَوْرَثَتِهِ"

"If anyone leaves property, it goes to his heirs"

[Saheeh al-Bukhaari (2298)]

In this hadeeth, all of the heirs are declared entitled to the wealth left by the deceased. Therefore, after the method specified for the distribution of shares, if there is anything left behind, then that is the right of all the heirs.

**Second:** Sometimes when distributing the shares according to the regular method, the sharers become more than the actual available wealth, which is called 'Awl [which we discussed earlier]. In this case, the shares of all the heirs are reduced proportionately. So when the shares of the heirs can be reduced in case of the shortage of estate, then it is reasonable to say that their shares should also be increased in case of the abundance of estate. In other words, if they are all partners in loss then they should also be partners in profit. This is what analogy (qiyaas) demands.

### Objection:

An objection on this opinion is that it also talks about returning the excess wealth to the spouses as well, when in fact, there is no evidence of giving spouses [Husband/Wife] any additional share from the residue after giving them their fixed share.

In fact, the generality of the verse:

"وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ"

“And those of [blood] relationship are more entitled [to inheritance] in the decree of Allah”

[al-Ahzaab (33: 6)]

– indicates that in such a situation, only the blood relatives will be entitled to the wealth of the deceased.

### **Method of Solving the problem [according to the first opinion]:**

The method of solving this issue of return according to the first opinion is the same as has already been described above [see page # 150-151].

### **❖ Second Opinion:**

All of the wealth that remains behind will be entrusted to the Bayt ul-Maal (House of Treasury) and none of the heirs will receive a share twice. This is the opinion of Maaliki and the Shaafi'ees.

### **Evidence:**

The Qur'an and hadeeth have already specified the specific amounts each heir will receive from the estate of the deceased. Therefore, when everyone has received his/her share according to his/her right, then they will not remain entitled to any additional wealth that remains behind. Therefore, the remaining wealth will be handed over to the Bayt ul-Maal.

### **Objection:**

An objection on this opinion is that in case of 'Awl, the heirs do not receive shares according to their specific rights, because the wealth is not sufficient. In a situation like this, no one says to borrow money from the Bayt ul-Maal in order to complete what is short, rather it's all adjusted in the shares of the heirs themselves as their shares are reduced proportionately. So when the shares of all heirs are reduced

in case of shortage of wealth and Bayt ul-Maal does not compensate for the loss, then in the same way, when the wealth is more than sufficient, the remaining wealth should not be handed over to the Bayt ul-Maal but to the heirs themselves.

Moreover, the hadeeth has passed above in which the property left behind by a deceased is declared to be the right of his/her heirs. Now if after giving the heirs their specified shares there remains something behind, then in light of the generality of this hadeeth, the remaining wealth is also the right of the heirs.

Additionally, there are several ahadeeth in which the cases of deficiency (naaqisah) were discussed in front of Allaah's Apostle (ﷺ) and it was suggested to give all of the wealth to the heirs, but the Prophet of Allaah (ﷺ) did not oppose it, in fact in some cases, this is what he gave the verdict on. [Saheeh Muslim (1149)]

**Note:** The proponents of this opinion are not in favor of returning any residue of the estate to the heirs in case of deficiency. Therefore, they do not refer to the "Case of Deficiency" as "Case of Radd (Return)".

### **Method of Solving the Problem [according to the second opinion]:**

According to this opinion, in case of deficiency, the asal mas'ala that is calculated in the first place will not be changed. On the contrary, every heir will be given his/her share according to this asal mas'ala, and whatever remains behind will be handed over to the Bayt ul-Maal.

It should be noted that because of the deterioration/vitiation of Bayt ul-Maal in the later centuries, the Maalikis and Shaafi'ees started giving fatwa according to the third opinion.

### **❖ Third Opinion:**

The remaining wealth will be returned to all of the heirs EXCEPT the spouses [Husband/Wife]. This is the opinion of Hanafis, and Hanbalis. And later on, the majority of the jurists adopted this opinion as well.

### **Evidence:**

"وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ"

“And those of [blood] relationship are more entitled [to inheritance] in the decree of Allah”

[al-Ahzaab (33: 6)]

It is argued from this verse that blood relatives are more entitled and the spouses are not blood relatives.

### Objection:

An objection on this opinion is that before the revelation of this verse, the system of inheritance was working on the bonds of Brotherhood (Mu'aakhaat) [between the Muhaajireen and Ansaar]. This verse was revealed to abrogate that very system by declaring that blood relatives are more entitled than the brotherly bond between individuals for inheriting the wealth of the deceased. However, even after the revelation of this command, the spouses were kept alongside the blood relatives [as heirs]. In fact, the share of the spouses is even more than some blood relatives. For example, in some cases, a husband gets a half of all the wealth while the other half goes to the rest of the blood relatives.

For example, a woman dies and leaves behind a husband, a mother, a uterine brother, and a consanguine brother, so:

Heirs	Share	6
Husband	$\frac{1}{2}$	3
Mother	$\frac{1}{6}$	1
U Brother	$\frac{1}{6}$	1
C Brother	Residue	1

The asal mas'ala is 6, and this is the total number of shares. The half of this entire estate i.e. 3 would go to the husband who is a non-blood relative, and the other half i.e. 3, would go to the other three blood relatives, i.e. all of them would get 1 share.

Notice, in this example, the husband is getting three times more than the blood relatives. From this, one can easily understand that even though spouses are not blood relatives, they are still equally eligible and entitled for inheritance as any other blood relative, in fact, they even hold a superior rank to some blood relatives. Therefore, excluding them in the case of return by saying that they are not blood relatives, is not appropriate.

Moreover, if the deceased has a son or a father, then all of the blood relatives of the deceased from the hawaashi get blocked (Mahjoob), while no one from the spouses ever gets blocked. This, also, is a proof of the fact that the entitlement of the spouses in the wealth of the deceased is quite strong, rather it is even stronger than many of the blood relatives.

### **Method of Solving the Problem [according to the third opinion]:**

The method of solving the problem of return according to the third opinion is in two steps.

#### **✓ First Step: (Solving the Case of Spouse separately):**

Whoever among the spouses is present [Husband or Wife] will be separated from all the other heirs and the denominator of his/her share will be made the asal mas'ala and he/she will be given his/her share based on that. The remaining of the wealth and the rest of the heirs will be separated.

#### **✓ Second Step: (Solving the Case of Return separately):**

The separated wealth will be distributed among the separated heirs based on the same method as explained before under the discussion of the case of return.



**Example:**

A woman dies and leaves behind a husband, a daughter and a mother.

The husband will get one-fourth ( $1/4$ ), the daughter will get one-half ( $1/2$ ), and the mother will get one-sixth ( $1/6$ ). The asal mas'ala would be 12, out of which 3 shares would go to the husband, 6 shares would go to the daughter, and 2 shares would go to the mother. 1 share will remain behind, which tells us that this is a Case of Return.

**First Step: (Solving the case of spouse separately):**

The denominator of only the husband's fixed share would be made the asal mas'ala, which would be 4. The husband will be given one share. The rest of the 3 shares as well as the heirs i.e. daughter and mother, will be separated.

Heirs	Share	4
Husband	$\frac{1}{4}$	1
Return Subjects (أهل الرد)	Residue	3

**Second Step: (Solving the case of return separately):**

For the return subjects i.e. daughter and mother, we will create a separate case:

Heirs	Share	6 with return 4
Daughter	$\frac{1}{2}$	3
Mother	$\frac{1}{6}$	1

The daughter will receive one-half and the mother will receive one-sixth. Asal Mas'ala would be 6, out of which, 3 shares will go to the daughter and 1 share will go to the mother. Thereafter, 2 shares would remain behind.

Therefore, the initial asal mas'ala of 6 would be ignored and the total sum of the shares of heirs (1 + 3) i.e. 4 would be made the new asal mas'ala.

In other words, the 3 shares that remained behind in the first step would be divided into 4 shares. Then 3 of the shares would be given to the daughter and 1 share to the mother.

## Supplementary Information

The method of distribution in two steps that is explained above according to the third opinion is relatively very easy. Therefore, it is better to use this method of distribution in the case of return for anyone who finds the third opinion to be the preferred one.

However in this method, since the process of distribution happens two times, the books of Faraa'idh have also mentioned a second method by the use of which the entire process of distribution can be completed in one go i.e. the process of distribution among all the heirs is completed using one asal mas'ala. This mas'ala is called "Jaami' Asal Mas'ala (Comprehensive Base Figure)".

Although according to this method, the process of distribution can happen with just one comprehensive asal mas'ala, but in order to attain this comprehensive asal mas'ala, one has to jump through a lot of hoops and hurdles. That is why, it is better to avoid this method, but if someone wants to learn this method as well, then there are two methods of doing so as mentioned below:

### ❖ **First Method: (Calculating the Comprehensive Base by solving separately):**

According to this method, after solving the case of spouse and the case of return separately [as done above], the [whole number] shares

of all the heirs will be re-written in the form of fraction with equal denominators [i.e. without simplification of fraction].

The denominator would be the comprehensive mas'ala, and the numerator of every heir would be his/her share. So:

- A)** We'd write the share of husband or wife in the form of fraction.
- B)** After that, for every heir from the return subjects, their share's fraction from both: the case of spouse [i.e. first step], and the case of return [i.e. second step] will be written and both of those fractions will be multiplied to make one fraction. [Trans: for example: in the example above, mother's share in the form of fraction from the first step would be  $\frac{3}{4}$  and mother's share in the form of fraction from the second step would be  $\frac{1}{4}$ , so multiplying those together ( $\frac{3}{4} * \frac{1}{4}$ ) would result in  $\frac{3}{16}$  as the mother's share in fraction]
- C)** After that we would make the denominator of the fraction of husband or wife to be equal [i.e. consistent with the denominators of the remaining shares].
- Now the denominator would be the comprehensive mas'ala, and the numerator of every heir's fraction would be his/her share.

### Example:

Let's take the same example given above. A woman dies and leaves behind a husband, a daughter, and a mother.

Husband	$\frac{1}{4} * \frac{4}{4}$	$\frac{4}{16}$
Daughter	$\frac{3}{4} * \frac{3}{4}$	$\frac{9}{16}$
Mother	$\frac{3}{4} * \frac{1}{4}$	$\frac{3}{16}$

The comprehensive mas'ala is 16. The husband will get 4 shares. The daughter will get 9 shares, and the mother will get 3 shares.

**Note:** Those who are well versed in mathematics would find this method very easy, but those who don't know mathematics may find it really hard.

❖ **Second Method: (Calculating the Comprehensive Base by solving in one place):**

According to this method, the process will be completed in the following steps:

✓ **Step 1:**

Calculate and give share based on the asal mas'ala of only the spouse [Husband or Wife].

The rest of the shares will be assigned to the Return Subjects as a common share. This case is called the Case of Spouse.

✓ **Step 2:**

Calculate the asal mas'ala of Return Subjects separately. Based on that, the sum of all the shares of return subjects would be the new asal mas'ala of return subjects. This case is called the Case of Return.

✓ **Step 3:**

The **“the rest of the shares”** in the case of spouse and the **“asal mas'ala”** in the case of return can be in two forms:

- 1) Both are equal
- 2) Both are different

○ **First: Both are Equal:**

If they both are equal then the asal mas'ala of the case of Spouse would itself be the Comprehensive (Jaami') Asal Mas'ala. So we'll write the shares of each heir under this Jaami' mas'ala.

For example: A man dies and leaves behind a wife, a mother, and a uterine brother. After solving this case we find that it is a case of Return, so, we'll do this process again step by step.

Case of Spouse			Case of Return		Jaami'
Heirs	Share	4	Share	6 with return (3)	4
Wife	$\frac{1}{4}$	1	X	X	1
Mother	Residue	(3)	$\frac{1}{3}$	2	2
U Brother			$\frac{1}{6}$	1	1

### Explanation:

- Step 1: (Case of Spouse)  
Wife will get one-fourth. Asal mas'ala is, therefore, 4. The share of the wife is 1.  
The rest of the 3 shares will be assigned to the return subjects as a common share.
- Step 2: (Case of Return)  
The separate asal mas'ala of the return subjects would be 6, which becomes 3 with return. Like this, mother will get 2 shares and uterine brother will get 1 share.
- Step 3: (Jaami' Mas'ala)  
The remaining shares in the case of Spouse are 3. And the asal mas'ala of the case of Return is also 3. Both these numbers are equal. Therefore, the asal mas'ala of the case of Spouse i.e. 4 would be the Jaami' Mas'ala. So underneath the Jaami' mas'ala, we'll write the share of wife as 1 from the case of Spouse. And below that, we'll write the share of mother as 2 and the share of uterine brother as 1 from the case of Return.
- **Second: Both are Different:**

The “the rest of the shares” in the case of Spouse and the “asal mas'ala” in the case of Return are two different numbers, then:

- A)** The sum of the remaining shares in the case of Spouse will be written on top of the asal mas'ala of the case of Return. And the asal mas'ala of the case of Return will be written on top of the asal mas'ala of the case of Spouse.
- B)** Then, the asal mas'ala of the case of Spouse will be multiplied by the number written at its top. The result will be the Jaami' Mas'ala, which will be written in the right most corner. Then the share of the spouse will also be multiplied by the number written at the top, and the result will be written below the Jaami' Mas'ala.
- C)** Then, the shares of each person in the case of Return will be multiplied by the number written at its top. The result will be written below the Jaami' Mas'ala.

### Example:

A woman dies and leaves behind a husband, a daughter, and a mother.

Case of Spouse 4			Case of Return 3		Jaami'
Heirs	Share	4 * 4	Share	6 with return 4	16
Husband	$\frac{1}{4}$	1 * 4	X	X	4
Daughter	Residue	3	$\frac{1}{2}$	3 * 3	9
Mother			$\frac{1}{6}$	1 * 3	3

### Explanation:

- Step 1: (Case of Spouse)  
The husband will get one-fourth. The Asal Mas'ala is, therefore, 4. Husband will get 1 share.  
The rest of the 3 shares will be assigned to the return subjects as a common share.
- Step 2: (Case of Return)

The separate asal mas'ala of the return subjects would be 6, which becomes 4 with return. Like this, the daughter will get 3 shares and the mother will get 1 share.

○ Step 3: (Jaami Mas'ala)

The “rest of the shares” in the case of Spouse is 3, and the asal mas'ala of the case of Return is 4. Both of these are different numbers. Therefore:

a) The remaining shares of the case of Spouse, which is 3, is written on top of the asal mas'ala of the case of Return. And the asal mas'ala of the case of Return, which is 4, is written on top of the asal mas'ala of the case of Spouse.

b) Then we multiplied the asal mas'ala of the case of Spouse i.e. 4, with the number written on the top, i.e. 4. The result, 16, became the Jaami Mas'ala.

After that, the share of the spouse (Husband), which is 1, is also multiplied by the number written on top. The result, 4, is written under the Jaami' Mas'ala.

c) Then we multiplied the shares of each heir in the case of Return with the number written on its top, i.e. 3. The result is written under the jaami' mas'ala.

**Note:**

All of these details mentioned under the “Supplementary Information” are not necessary to be learned. The easiest method to solve this issue is to solve the case of Spouse and the case of Return separately and be done with it, instead of indulging in the complexity of Jaami' Mas'ala.

However, if someone wants to learn this method, we have mentioned its details also, just for the sake of benefit. And these details are also presented in the easiest way possible, otherwise, the other books of Faraa'idh have made it even more complicated by suggesting the use of relations between the numbers, to acquire the Jaami mas'ala in the case of Spouse.

**Exercises:**

Solve the following problems. Solve the case of Spouse relating to the Return case according to the third opinion:

- 1- Daughter (بنت), Father (أب), Mother (أم)
- 2- Son's Daughter (بنت الابن), Mother's Mother (أم الأم), Father's Mother (أم الأب)
- 3- Mother (أم), U Sister (أخت لأم), C Sister (أخت لأب)
- 4- Husband (زوج), Son's Daughter (بنت الابن), Mother (أم)
- 5- Husband (زوج), Daughter (بنت), Son's Daughter (بنت الابن)
- 6- Husband (زوج), Mother's Mother (أم الأم), U Sister (أخت لأم)
- 7- Wife (زوجة), F Sister (أخت ش), C Sister (أخت لأب)
- 8- Wife (زوجة), Daughter (بنت), Son's Daughter (بنت الابن), Mother (أم)
- 9- Wife (زوجة), Daughter (بنت), Mother's Mother (أم الأم), Father (أب)



# PART FIVE: RARE CASES

## CHAPTER ONE: RUNNING PROPERTY

### (المناسخة)

#### Linguistic Meaning:

Munaasakha comes from Nasakh. It has several meanings; the most basic of its meaning is to replace and copy.

#### Technical Meaning:

Before the estate of the deceased is distributed, if one or more of his heirs pass away, then the share of that deceased heir is distributed among his own heirs. This process of passing along the distribution is called “Munaasakha (مناسخة)”.

The Methods of Solving the Case of Munaasakha:

#### ➤ First Method: (Succession or Solving Separately):

The easiest method of solving the case of Munaasakha is to solve the case of each deceased individual separately and in order. Like this, the case of every deceased person could be solved like any other normal case, and no new method or information would be needed at all.

#### Example:

A person dies and leaves behind a wife, two sons, and a daughter.

The wife dies before the distribution of the estate, and she has the aforementioned two sons and daughter among her heirs, as well as a father.

After a few days, one of the sons also passes away, and he has the aforementioned one full brother and one full sister, and a wife among his heirs.

### **Solution:**

In this case, we have three deaths one after another. Using the same order, we'll distribute the estate for all separately.

#### ✓ **First: (The Case of the First Deceased):**

The first person to die has a wife, two sons, and a daughter among his heirs.

Heirs	Share	8
Wife	$\frac{1}{8}$	1
2 Sons	Residue	7
Daughter		

The wife will get one-eighth, and the rest will be distributed among his children based on the principle of:

"لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ"

“The share of the male will be twice that of the female.”

#### ✓ **Second: (The Case of the Second Deceased):**

The second person to die is the first person's wife. The one-eighth that she received from the first deceased will be distributed among her heirs. She has a father, two sons, and a daughter among her heirs.

Heirs	Share	6
Father	$\frac{1}{6}$	1
2 Sons	Residue	5
Daughter		

The father will get one-sixth, and the rest of the estate will be distributed among her children based on the principle of:

"لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ"

“The share of the male will be twice that of the female.”

### ✓ Third: (The Case of the Third Deceased):

The third person to die is one of the sons of the first deceased. He has a wife, a full brother and a full sister among his heirs.

Heirs	Share	4
Wife	$\frac{1}{4}$	1
F Brother	Residue	3
F Sister		

The wife will get one-fourth, and the rest of the estate will be distributed among the siblings based on the principle of:

"لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ"

“The share of the male will be twice that of the female.”

## Supplementary Information

The method mentioned above is the easiest method to solve the issue of Munaasakha. This method is called the “Method of Succession”. The other method of solving this issue is quite difficult and complex, therefore, it is better to learn the first method really well. One benefit of this first method is also that if the deceased whose death follows the first deceased has a wealth of his own, that wealth also can be combined with the wealth he received from the wealth of the previous deceased and distributed together.

Since the estate is distributed again and again using the first method, i.e. each deceased's wealth is distributed separately. That is why, the experts of Faraa'idh (Inheritance) have also mentioned a second method. By applying the second method, the estate can be distributed among all the heirs in one single process. Although the distribution process using this method happens only once, but putting this method into practice is a lot harder than simply going through the process of distribution more than once.

Moreover, if the deceased who died later has a wealth of his own, then that has to be distributed separately in any case. That is why, there is not much benefit of the second method.

However, if someone wants to learn the second method as well, we are going to mention it below.

### ➤ **Second Method: (Solving through a single Jaami' Mas'ala):**

The purpose of the second method is to find an asal mas'ala using which the shares of all the heirs can be distributed at once. That is why, this asal mas'ala is called the “Jaami' Mas'ala”.

This very “Jaami' Mas'ala” is calculated in this second method, and the shares of all the heirs are calculated based on that. This method is

almost the same as the one described under the discussion of Return at the end in the case of Spouse.

## **The Basic Method of Acquiring the Jaami [Mas'ala]:**

The basic process in this regard is done in the following steps:

### **✓ Step One:**

First, we'll solve the case of the first deceased. After calculating his/her asal mas'ala, we'd give all his heirs their shares including the heir that died later on. In case of 'Awl or Radd, we'd change the asal mas'ala accordingly, and if tasheeh is needed that will be done as well. After that, the case of the second deceased will be solved in the same way.

### **✓ Step Two:**

We'll write the share of the second deceased on top of his/her asal mas'ala. And the asal mas'ala of the second deceased will be written on top of the asal mas'ala of the first deceased.

### **✓ Step Three:**

The asal mas'ala of the first deceased will be multiplied by the number written at its top. The result will be the Jaami' Mas'ala, which will be written in the right most corner.

After that, the shares of the first deceased will also be multiplied by the number written on top. The result will be written below the Jaami Mas'ala.

### **✓ Step Four:**

The share of each heir of the second deceased will be multiplied by the number written at its top. The result will be written under the Jaami' Mas'ala.

### **✓ Step Five:**

The heir that received a share in only one case, his share will be written as it is. The heir that received a share in both the cases, both his shares will be added and the result will be written under the Jaami'. Now the Jaami' Mas'ala and the shares of all heirs shown under it have been known.

### Example:

A man dies and leaves behind a mother, a uterine sister, and a full uncle. Before the distribution of the estate, the uterine sister passes away, and she has the aforementioned mother, as well as her son among her heirs.

### Solution:

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	6 * 6	Heirs	Share	1	
Mother	$\frac{1}{3}$	2 * 6	Mother	$\frac{1}{6}$	1 * 1	12 + 1 = 13
U Sister	$\frac{1}{6}$	1	Deceased	=	=	=
F Uncle	Residue	3 * 6	X	X	X	18
			Son	Residue	5 * 1	5

### Explanation:

#### ○ Step One:

The asal mas'ala of the first deceased is 6, which is the total number of shares. The mother gets one-sixth i.e. 1 share. The Uterine Sister gets one-sixth i.e. 1 share, and the rest of the 3 shares go to the full uncle.

The asal mas'ala of the second deceased is 6, which is the total number of shares. The mother gets one-sixth i.e. 1 share, and the rest of the 5 shares go to the son.

#### ○ Step Two:

The share of the second deceased, i.e. 1, is written on top of the second deceased's asal mas'ala. The asal mas'ala of the second deceased, i.e. 6, is written on top of the first deceased's asal mas'ala, which is 6.

○ Step Three:

The asal mas'ala of the first deceased i.e. 6, is multiplied by the number written on top, i.e. 6. The result, 36, became the Jaami' Mas'ala, which is written on the right most corner.

The shares of each heir of the first deceased is also multiplied by the number written on top, i.e. 6. So, the share of the mother was 2 which is multiplied by the number on top, i.e. 6. The result is 12, which is written below the Jaami' Mas'ala. The share of the full uncle was 3, which is multiplied by the number on top, i.e. 6. The result is 18, which is written below the Jaami' Mas'ala.

○ Step Four:

The shares of each heir of the second deceased is multiplied by the number written on its top, which is 1. The share of the mother was 1, which is multiplied by the number on top, i.e. 1. The result is 1, which is written under the Jaami' Mas'ala. The share of the son was 5, which is multiplied by the number on top, i.e. 1. The result is 5, which is written under the Jaami' Mas'ala.

○ Step Five:

The mother received 12 shares in the first case and 1 share in the second case. Adding both numbers ( $12 + 1$ ) results in 13, which is written under the Jaami' Mas'ala. The full uncle of the first deceased received 18 shares only in the first case, which is written as is under the Jaami' Mas'ala. The son of the second deceased received 5 shares only in the second case, which is written as it is under the Jaami' Mas'ala.

Now the Jaami' Mas'ala is 36. Based on that, all of the heirs will be given the shares that are written under the Jaami' Mas'ala.

## More Simplicity in the Above Method

The method mentioned above is the basic method by which Jaami' Mas'ala is calculated. However, in this method, the process of multiplications makes the numbers too big. That is why knowledge of the kind of relations between numbers (نسب بين الأعداد) is utilized, so that big numbers can be avoided as much as possible. Below, we will give an introduction of these relations and the method of using them.

## Relations between Two Numbers (نسب بين العددين):

[Translator: The concept of Relations between Two Numbers is a traditional calculating method that is not found in the modern mathematical concepts. However, this concept holds much importance in calculating the inheritance, so it would be appropriate to learn it. However, as we learned above, it is not necessary to be learned as this process can be solved with much simpler methods like the one described under the First Method of Munaasakha]

In order to make the distribution in Jaami' Mas'ala somewhat easier, the knowledge of relations between two numbers is utilized. Therefore, it is important to first understand these relations.

Any two numbers can have one of the following four relations between them.

### ❖ Symmetry (تماثل):

If two numbers are equal such as 2 and 2, or 3 and 3 etc., then the relation between these two numbers is called "Symmetry (تماثل)".

### ❖ Contrast (تباين):

If two numbers are such that neither of them can divide the other evenly [i.e. without a remainder], nor can a third number divide the both of them evenly, then the relation between such two numbers is called "Contrast (تباين)". For example: 5 and 7.

[Trans: More examples include (3 & 4), (4 & 5), (5 & 6), (6 & 7), (3 & 5) and so on]

### ❖ Compatibility (توافق):



If two numbers are such that one of them cannot divide the other evenly [i.e. without a remainder], but a third number can divide BOTH of them evenly, then the relation between such two numbers is called “Compatibility (توافق)”. For example, 4 & 6. Neither of these two numbers can divide the other number evenly, but a third number, 2, can divide both of them evenly.

Whichever number the third number divides one of the numbers in [i.e. the multiplier of the third number], that number is called compatible (وافق) of that number [i.e. the resulting number of the division, or quotient]. In the example above, the third number (2) divides the number (4) on (2). Therefore, (2) is called compatible of (4).

Similarly, the third number (2) divides the number (6) on (3). Therefore, (3) is called compatible of (6).

If the third divider [or number] is (2) then it's called “Compatibility with one-Half (توافق بالنصف)” [English equivalent of: “Multiple of 2”]; and if the third divider is (3) then it's called “Compatibility with one-Third (توافق بالثلث)” [English equivalent of: “Multiple of 3”] and so on.

[Trans: More examples include (6 & 9), (4 & 10), (8 & 12), (10 & 15) and so on]

### ❖ Interference (تداخل):

If two numbers are such that one of them can divide the other number evenly [i.e. without a remainder], then the relation between such two numbers is called “Interference (تداخل)”. For example: (2) and (4). The number (2) can divide the number (4) evenly.

Keep in mind that like in the relation of “Compatibility”, there is a compatible (وافق) number here as well [English equivalent of a quotient]. In the example above:

The first number (2) divides the second number (4) on (2). Therefore, (2) is called the compatible of (4).

Similarly, the first number (2) divides itself on (1). Therefore, (1) is called the compatible of (2).

[Trans: More examples include: (4 & 8), (3 & 6), (5 & 10), (6 & 12), (7 & 14) and so on]

## Calculating the Jaami' Mas'ala using Number Relations in Munaasakha case

Following the same method as described before for calculating the Jaami' Mas'ala, we'll look at the relation of numbers between the share of the second deceased and the asal mas'ala of the case of second deceased.

Keep in mind that if we continued this process based on the aforementioned initial method without looking at the relations between numbers, we'd reach the same result. However, during this process we'll have to deal with some large numbers which cause difficulty in calculation. To ease this difficulty, the concept of number relations is used for aid in this process.

Anyway, we'd look at the share of the second deceased and the asal mas'ala of the case of second deceased as to what type of relation is found between their two numbers.

### ❖ The Relation of Symmetry (تماثل):

If the relation between the two numbers is of Symmetry, then the asal mas'ala of the first deceased would itself be the Jaami' Mas'ala. Therefore, without doing any additional steps, we'll write this Jaami' Mas'ala in the right most corner and the share of every heir will be written under it.

#### Example:

A woman dies and leaves behind a husband, a mother, and a full uncle. Before the distribution of the estate, the husband passes away. The husband has three full brothers among his heirs.

#### Solution:

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	6	Heirs	Share	3	6
Husband	$\frac{1}{2}$	3	Deceased	=	=	=
Mother	$\frac{1}{3}$	2	X	X	X	2
F Uncle	Residue	1	X	X	X	1
			3 F Brothers	All	3	3

### Explanation:

The asal mas'ala of the first deceased is (6), which is the total number of shares. The husband will get one-half i.e. (3) shares. The mother will get one-third i.e. (2) shares. The rest of the (1) share will go to the full uncle.

The asal mas'ala of the second deceased is (3). Each brother will get (1) share.

Here, the share that the second deceased, i.e. Husband, received from the first deceased is (3). Additionally, the asal mas'ala of the case of second deceased is also (3). The relation between the two numbers is of "Symmetry". Therefore, the Jaami' Mas'ala would be the asal mas'ala of the first deceased, i.e. (6). Now all the heirs will be given shares based on that.

### ❖ The Relation of Compatibility (توافق) or Interference (تداخل):

If the relation between the two numbers is of Compatibility or Interference then the compatible (وفق) number of the share of the second deceased will be written on top of his/her asal mas'ala. And the compatible (وفق) number of the asal mas'ala of the second deceased will be written on top of the asal mas'ala of the first deceased. Then we'll do the process of multiplication as described in the initial method.

[Translator: All of this discussion on “Relation between Numbers” and so on can be simplified in one sentence and that is: **to simplify (reduce) the two different numbers (i.e. the share of the second deceased and the asal mas’ala of the second deceased) by the highest common factor; and if the two numbers cannot be simplified then leave them as they are.**]

### Example of Compatibility (توافق):

A man dies and leaves behind a wife, a daughter, and a full brother among his heirs. Before the distribution of the estate, the daughter dies. The daughter has the aforementioned mother, and full uncle as well as a husband among her heirs.

#### Solution:

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	3 8 * 3	Heirs	Share	2 6 * 3	24
Wife	$\frac{1}{8}$	1 * 3	Mother	$\frac{1}{3}$	2 * 2	3 + 4 = 7
Daughter	$\frac{1}{2}$	4 * 2	Deceased	=	=	=
F Brother	Residue	3 * 3	F Uncle	Residue	1 * 2	9 + 2 = 11
			Husband	$\frac{1}{2}$	3 * 2	6

#### Explanation:

The asal mas’ala of the first deceased is (8) which is the total number of shares. The wife will get one-eighth i.e. (1) share. The daughter will receive one-half i.e. 4 shares. The rest of the (3) shares will go to the Full Brother.

The asal mas’ala of the second deceased is (6) and this is the total number of shares. The mother will get one-third i.e. (2) shares. The

husband will get one-half i.e. (3) shares. The rest of the (1) share will go to the full uncle.

Here, the share the second deceased i.e. daughter, received from the first deceased is (4). And the asal mas'ala of the case of daughter is (6). Both of the numbers have a relation of compatibility with half (توافق بالنصف). The compatible (وفق) number of (4) is (2) and that of (6) is (3).

[Trans: In other words, (4) and (6) can be simplified by the highest common factor of (2), so  $4/2 = 2$  and  $6/2 = 3$ . Hence, they are simplified to (2) and (3).]

The compatible (وفق) number of the share of second deceased [i.e. the number it is simplified into] is written on top of her asal mas'ala, (6). And the compatible (وفق) number of the asal mas'ala of second deceased, (3), is written on top of the asal mas'ala of the first deceased (8). After that, based on these two [simplified] numbers, we completed the process of multiplication as described in the original method.

### Example of Interference (تداخل):

A man dies and leaves behind a full sister, a mother's mother, and a full uncle among his heirs. Before the distribution of the estate, the full uncle passed away. The full uncle had a wife and a consanguine brother among his heirs.

### Solution:

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	6 * 2	Heirs	Share	4 <sub>2</sub>	12
F Sister	$\frac{1}{2}$	3 * 2	X	X	X	6
Mother's Mother	$\frac{1}{6}$	1 * 2	X	X	X	2
F Uncle	Residue	2 <sub>1</sub>	Deceased	=	=	=
			Wife	$\frac{1}{4}$	1 * 1	1
			C Brother	Residue	3 * 1	3

### Explanation:

The asal mas'ala of the first deceased is (6), and this is the total number of shares. The full sister will get one-half i.e. (3) shares. The mother's mother will get one-sixth i.e. (1) share, and the rest of the (2) shares will go to the Full Uncle.

The asal mas'ala of the second deceased is (4), and this is the total number of shares. The wife will get one-fourth i.e. (1) share, and the rest of the (3) shares will go to the Consanguine Brother.

The share that second deceased i.e. full uncle, received from the first deceased is (2). And the asal mas'ala of the case of full uncle is (4). The relation between these two numbers is of Interference, i.e. the number (2) can divide the number (4) exactly. However, every case of interference also has a relation of compatibility in it. Here the compatibility is with a half (توافق بالنصف). The compatible number of (4) is (2) and that of (2) is (1).

The compatible number of the share of the second deceased i.e. (1), is written on top of his asal mas'ala (4). And the compatible number of the asal mas'ala of the second deceased (2) is written on top of the asal mas'ala of the first deceased (6). After that, based on these two

[simplified] numbers, we completed the process of multiplication as described in the original method.

### Example of Contrast (تباين):

If the relation between the two numbers is of contrast, then no further simplification is possible. Therefore, in this case the original method that is described above will be used to do the process. The example given in the beginning of the original method is that of contrast.

#### Note:

If more than two people have died in the case of Munaasakha, then we'll first calculate the Jaami' Mas'ala of the first two deceased. After that, we'll take the final result and assume it to be the case of one deceased and calculate the Jaami' Mas'ala of this and the next case. We'll continue to do this until the case of all heirs is solved.

#### Note:

As we said before, it is much easier in the case of Munaasakha to distribute the estate of each deceased individual separately. Therefore, the cases of Munaasakha should be solved using this easier method.

However, for those who take interest in mathematics, we've also [tried to] explain the second method of distribution in as simple terms as possible.

### Exercises:

Try to solve the following cases according to the described methods.

**A)** Solve the following by the method of Succession [i.e. Separately]

- 1- A man dies and leaves behind a wife, three sons, and a daughter. Before the distribution of the estate, the daughter dies. She has the aforementioned relatives as well as a daughter among her heirs.
- 2- A woman dies and leaves behind a husband, a daughter, a mother, and a full sister. Before the distribution of the estate, the full sister

dies. She has the aforementioned mother as well as a son among her heirs.

- B)** Solve the following by calculating the Jaami' Mas'ala
- 3-** A man dies and leaves behind a wife, a son from another deceased wife, and both parents. Before the distribution of the estate, the wife dies and she has three sons from another husband among her heirs.
- 4-** A woman dies and leaves behind a husband, a mother, a uterine brother, and a uterine sister. Before the distribution of the estate, the uterine sister dies and she has the aforementioned mother and brother as well as a son among her heirs.
- C)** Solve the following by calculating the Jaami' Mas'ala using the concept of Number Relations [i.e. simplification].
- 5-** A man dies and leaves behind a mother, a father, and a son. Before the distribution of the estate, the son dies. And the son has the aforementioned relatives as well as a son among his heirs.



## CHAPTER TWO: INHERITANCE OF A MISSING PERSON (ميراث المفقود)

### Linguistic Meaning:

Mafqood is a form of maf'ool from the baab of Daraba, which means to be lost or missing.

### Technical Meaning:

In terms of inheritance, Mafqood refers to a person whose whereabouts are not known, and it is also not known if he is alive or dead.

A missing person (Mafqood) can be in one of two states:

#### ➤ First: The Missing Person is the Devisor (Owner of the Estate):

If the missing person is the devisor (مورث) then he/she will be assumed alive and his property will not be distributed until his death can be confirmed either through indisputable evidence or a judge writes him off as dead based on his reasoning.

After how many years of waiting can a Judge issue the verdict of someone's death, is disputed upon. However, the preferred opinion is that there is no set limit in this regard, rather this decision can be made after any span of time based on the situation and supporting evidences. However, we generally find some aathaar of Sahaabah regarding four years of waiting period. Therefore, at least four years of wait should be observed. After that, if the situation and supporting evidences demand waiting for more period then it should be done, otherwise, if the preponderant opinion is of the person being dead then the Judge will give the verdict accordingly.

The moment a judge gives the verdict of someone's death, only the heirs that are alive at that time would be eligible to inherit. The heirs that died before this verdict would not have any share in the

inheritance. That is because, in order to be an heir, the confirmation of the devisor's death is a necessary condition, which is not achieved until this verdict.

### ➤ **Second: The Missing Person is the Heir:**

If the missing person is an heir then he/she will also be ruled as before i.e. he will be assumed alive until his death can be confirmed either through indisputable evidence or a judge writes him off as dead based on his reasoning. During this time, his share in inheritance would be kept safe and a decision will be made later on based on the following cases:

- **First Case:** Later on, it's found that the missing person had died before the death of his devisor (مورث), then the saved share will be distributed among the other eligible heirs of the deceased.
- **Second Case:** Later on, it's found that the missing person died after the death of his devisor (مورث), then the saved up share will belong to the missing person and it will be distributed among the heirs of the missing person.
- **Third Case:** Later on, it's found that the missing person has died but it is not known whether he died before the death of his devisor or after it; or no news about the missing person is received at all and the Judge rules him to be dead, then the saved up share will belong to the missing person which will be distributed among his heirs alive at the time of the ruling of his death <sup>(15)</sup>.
- **Fourth Case:** Later on, if the missing person comes back alive then he will receive his share. If he comes back alive during the waiting period then the saved share will be handed over to him. And if he comes back alive after the Judge rules him dead and his

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**15** - This is the Hanbali Madhab in this situation and this is the preferred one. The other Scholars opine, in this case that, the first case will be applied [i.e. the missing person will be assumed to have died before the death of his devisor], and the saved up share will not belong to the missing person but it will be distributed among the other eligible heirs of the deceased. However, this is not a correct opinion because in this case, there is no evidence to prove that the heir died before his devisor, while the default ruling is of being alive.

saved up share has been distributed, then the people who received his share will be asked to return it back and it will then be given to him.

Now as for the issue of how to save the share of a missing person and how to distribute the shares among the other heirs, then the method for that is given below:

## Method of Solution:

The case of a missing person can be solved in steps through the following method:

### ✓ Step One:

First, the missing person will be assumed alive and an asal mas'ala will be calculated and all heirs will be distributed their shares based on that. Then the missing person will be assumed dead and another asal mas'ala will be calculated for that and all heirs will be distributed their shares based on that. The space for the jaami mas'ala after both of these cases will be left blank for now.

### ✓ Step Two:

The Jaami' Mas'ala of both the cases will be calculated. The method for that is: we'll calculate the L.C.M of the asal mas'ala of both the cases. The acquired number will be the Jaami' Mas'ala. The Jaami Mas'ala will be written in the spaces left blank after both the cases.

### ✓ Step Three:

The Jaami' Mas'ala would be divided by each of the asal mas'alas. The result will be written on top of each asal mas'ala.

### ✓ Step Four:

The shares of each heir in each of the cases will be multiplied by the corresponding number written on its top. The resulting number will be written under the Jaami' Mas'ala of each case.

### ✓ Step Five:

Based on the Jaami' of both the cases, we'll give whichever is the lesser of the two shares to the heirs. The rest of the estate will be kept safe and distributed at a later time based on one of the aforementioned four cases.

### Example:

A man dies and leaves behind a daughter and two sons, but one of the sons is missing.

### Solution:

Assumed Alive 3			Jaami'	Assumed Dead 5		Jaami'
Heirs	Share	$5 * 3$	15	Share	$3 * 5$	15
Son (M)	2	$2 * 3$	6	X	X	X
Son	2	$2 * 3$	6	2	$2 * 5$	10
Daughter	1	$1 * 3$	3	1	$1 * 5$	5

### Explanation:

- In Step One, we solved the cases for both the assumed scenarios.
- In Step Two, we calculated the L.C.M of the asal mas'ala of both cases i.e. (5) and (3), which came out to be (15). This result is written in the spaces for Jaami' Mas'ala.
- In Step Three, we divided the Jaami' Mas'ala with the asal mas'ala of each of the cases, and the result of (3) and (5) is written on top of each asal mas'ala accordingly.
- In Step Four, we multiplied the number written on top of the asal mas'ala with the shares of each heir and the result is written under the Jaami' Mas'ala.

- In Step Five, we see that the living son gets (6) shares in the first case and (10) shares in the second case. For now, he will be given the (6) shares and (4) shares will be saved.

The daughter gets (3) shares in the first case and (5) shares in the second case. For now, she will be given (3) shares and (2) shares will be saved.

This means, a total of six shares ( $4 + 2 = 6$ ) will be saved. If the missing person is found eligible to receive this share later on, then these (6) shares will belong to him. And if he is found not eligible for these shares then from these (6) shares, (4) shares will be given to the living son and (2) shares will be given to the daughter.

In the example above, the problem is solved for a case where only one of the heirs is missing. If there is a case in which more than one heir is missing, then we'd only have an increased number of assumed cases but the method will remain the same.

### Example:

A man dies and leaves behind a mother and a full brother, but his wife and daughter are both missing.

### Solution:

Both Assumed Alive 1			Jaami	Both Assumed Dead 8			Jaa mi	Daughter Assumed Dead 2			Jaami	Wife Assumed Dead 4			Jaami
Heirs	Share	$24 * 1$	24	Share	$3 * 8$	24		Share	$12 * 2$	24		Share	$6 * 4$	24	
Wife (M)	$\frac{1}{8}$	$3 * 1$	3	Dead	X	X		$\frac{1}{4}$	$3 * 2$	6		Dead	X	X	
Daughter (M)	$\frac{1}{2}$	$12 * 1$	12	Dead	X	X		Dead	X	X		$\frac{1}{2}$	$3 * 4$	12	
Mother	$\frac{1}{6}$	$4 * 1$	4	$\frac{1}{3}$	$1 * 8$	8		$\frac{1}{3}$	$4 * 2$	8		$\frac{1}{6}$	$1 * 4$	4	
F Brother	Residue	$5 * 1$	5	Residue	$2 * 8$	16		Residue	$5 * 2$	10		Residue	$2 * 4$	8	

### Explanation:

Like the example before, this example will also be solved step by step.

For now, the mother will be given (4) shares and the full brother will be given (5) shares.

**Note:** If the missing people are more than one then the formula to know how many [assumed] cases we'll have to create is to raise the number of people missing to the power of (2), the result will give us the number of total cases.

If (1) person is missing then (1) will be raised to the power of (2):  
.....  $2^1 = 2$  cases

If (2) people are missing then (2) will be raised to the power of (2):  
.....  $2^2 = 2 * 2 = 4$  cases

If (3) people are missing then (3) will be raised to the power of (2):  
.....  $2^3 = 2 * 2 * 2 = 8$  cases

If (4) people are missing then (4) will be raised to the power of (2):  
.....  $2^4 = 2 * 2 * 2 * 2 = 16$  cases

## Exercises:

- 1- Husband (زوج), 2 Sons (ابن / ٢) **(the second son is missing)**
- 2- Husband (زوج), Son (ابن), Daughter (بنت) **Missing**
- 3- Husband (زوج), Son (ابن) **Missing**, F Brother (أخ ش)
- 4- Husband (زوج), Daughter (بنت) **Missing**, U Brother (أخ لأم)
- 5- Husband (زوج), U Brother (أخ لأم) **Missing**, U Sister (أخت لأم)
- 6- Husband (زوج) **Missing**, Daughter (بنت), Father (أب), Mother (أم)
- 7- Wife (زوجة), Son (ابن) **Missing**, F Sister (أخت ش)
- 8- Wife (زوجة), Daughter (بنت) **Missing**, Mother's Mother (أم الأم)
- 9- Wife (زوجة), C Brother (أخ لأب), C Sister (أخت لأب) **Missing**
- 10- Wife (زوجة), 2 Daughter (بنت / ٢), Son (ابن) **Missing**, Uncle (عم) **Missing**, F Uncle's Son (زوجة)
- 11- Wife (زوجة), 2 Sons (ابن / ٢) **Missing**, Father (أب), Father's Mother (أم الأب), F Brother (أخ ش)
- 12- Wife (زوجة), Son (ابن), Daughter (بنت), Mother (أم) **Missing**, Mother's Mother (أم الأم)

## CHAPTER THREE: INHERITANCE OF AN UNBORN CHILD (ميراث الحمل)

### Linguistic Meaning:

Linguistically, Hamal means to carry a burden.

### Technical Meaning:

It's the relative of the deceased that has been conceived in his/her mother's womb, whether male or female.

### The Conditions for a Fetus to become an Heir:

#### 1- First Condition:

The fetus is already present in its mother's womb at the time of death of the devisor. This can be easily known in our age through medical tests. However, the way of knowing this in the old days was the timely delivery of the new born. This means, the child is either born within the minimum period of six months or the maximum period of four years, provided that the mother has not been with another man.

There is a difference of opinion among the Scholars regarding the minimum and maximum periods of pregnancy but this dispute is of little benefit in the current age; because nowadays, it can be easily known through medical examination as to how old the fetus is.

#### Evidence:

The evidence for this condition is that, without this, the fetus is not proven to be alive by judgment. Whereas, one condition among the three conditions of inheritance is that only those relatives would be able to inherit who are alive at the time of the devisor's death, either by reasoning or actual presence, as it has been explained before in the Introduction.

#### 2- Second Condition:

The fetus is born alive [even for a few seconds]. This can also be easily known through medical tests, however, the way of knowing this in the old days was if the new born showed any signs of life such as crying, [breathing], moving its limbs and so forth.

### **Evidence:**

The evidence for this is a clear hadeeth in which the Prophet of Allaah (ﷺ) said:

" لا يرث الصبي حتى يستهل صارخا "

“A [new born] baby does not inherit until he raises his voice or cries”

[Sunan Ibn Maajah (2751), Chain Hasan]

The mention of crying is due to its being the predominant sign of life, but if there are other signs like this that prove the life of the baby, then s/he will be considered alive and declared an heir.

## **The Method of Distributing Inheritance with a Fetus:**

If the other relatives who qualify as heirs along with the fetus can wait until the birth of the baby then whichever condition the baby is born in [i.e. whether it is born alive or dead and if it is born alive, is it a male or a female], the inheritance can be distributed accordingly and decisively at once.

However, if the other heirs demand their shares before the birth of the baby then the method of distribution would be to assume all possible situations of the baby, and then do the process of distribution just like the case of a missing person [as described above].

### **The Number of Assumed Situations:**

In the old times, there used to be six assumed scenarios. However, in modern times with the help of medical examination, the gender as well as the number of babies can be determined.



If the gender and the number of babies has been determined then there are only two situations for a newborn. And that is, he/she is either born alive or he/she is born dead. In this case, we'll create two cases just like the case of a missing person and distribute the shares through the Jaami' Mas'ala.

However, if medical examination is not possible for some reason then the fetus would have the following six assumed situations:

- 1- First: Dead
- 2- Second: Male
- 3- Third: Female
- 4- Fourth: Two Males
- 5- Fifth: Two Females
- 6- Sixth: One Male, One Female

More situations are also possible, but this is the predominant number of situations. Therefore, we'll suffice with these. We'll solve this problem step by step just like the case of missing person; the only difference is that we have an increased number of situations here, but the method of solution is the same.

### **Example:**

A man dies and leaves behind a wife, an uncle, and father's pregnant second wife who is not the deceased's mother (So the fetus is the deceased's consanguine sibling).

Now, we'll give each heir the least possible share in all assumed cases and the rest of the wealth will be saved which will be given to the heirs who are entitled to it after the birth of the baby.

Dead	3	Jaami	Boy	3	Jaami	Girl	3	Jaami	Boy, Girl	3	Jaami	Two Boys	3	Jaami	Two Girls	1	Jaami
Heirs	Share	4 * 3	12	Share	4 * 3	12	Share	4 * 3	12	Share	4 * 3	12	Share	4 * 3	12	Share	12 * 1
Wife	$\frac{1}{4}$	1 * 3	3	$\frac{1}{4}$	1 * 3	3	$\frac{1}{4}$	1 * 3	3	$\frac{1}{4}$	1 * 3	3	$\frac{1}{4}$	1 * 3	3	$\frac{1}{4}$	3 * 1
Fetus	X	X	Residue	3 * 3	9	$\frac{1}{2}$	2 * 3	6	Residue	3 * 3	9	Residue	3 * 3	9	$\frac{2}{3}$	8 * 1	8
Uncle	Residue	3 * 3	9	X	X	Residue	1 * 3	3	X	X	X	X	X	X	Residue	1 * 1	1

**Explanation:**

- In Step One, we solved all of the assumed cases.
- In Step Two, we calculated the L.C.M of the asal mas'alas of all the cases, which came as (12). This is then written in the place of the Jaami' Mas'ala.
- In Step Three, we divided the Jaami' Mas'ala with each asal mas'ala and the result (3, 3, 3, 3, 1) is written, in order, on top of each asal mas'ala.
- In Step Four, we multiplied each of the shares of heirs in each case with the number written on its top, and the result is entered under the Jaami'.
- In Step Five, we saw that the uncle is not getting any share in some scenarios, therefore, he will not be given any share. Whereas the wife is getting (3) shares in all of the scenarios, therefore, she will be given her (3) shares. The rest of the (9) shares will be saved which will be distributed to those are eligible after the birth of the baby.

## Exercises:

- 1- A man dies and leaves behind a daughter and a pregnant daughter-in-law [i.e. son's wife].
- 2- A man dies and leaves behind a son and a pregnant wife
- 3- A man dies and leaves behind a mother, a daughter, and a pregnant sister-in-law [i.e. brother's wife]
- 4- A man dies and leaves behind a mother, a daughter, and a pregnant aunt [i.e. uncle's wife]
- 5- A man dies and leaves behind a daughter and father's second pregnant wife
- 6- A man dies and leaves behind a wife, a daughter, and a pregnant mother
- 7- A man dies and leaves behind a wife, a daughter, and a pregnant mother from step-father.

## CHAPTER FOUR: INHERITANCE OF AN INDETERMINATE HERMAPHRODITE

### (ميراث الخنثى المشكل)

#### Linguistic Meaning:

“Khuntha (خنثى)” based on the verb form of “Fu’la (فعلى)” comes from the root word of “Khanitha (خنث)” on the verb pattern of “Sami’a (سمع)”. It contains the meaning of crookedness [and/or languidness]. The word “khuntha” is formed from this root and it is used to refer to an intersex or hermaphrodite person. And “mushkil” comes from “Ishkaal” which means to be difficult or vague.

#### Technical Meaning:

An indeterminate hermaphrodite (الخنثى المشكل) refers to an individual whose gender, i.e. being a male or a female, cannot be determined. In addition, he shows no dominant characteristic of either a male or a female.

### Inheritance of a Hermaphrodite:

If the hermaphrodite is not indeterminate, i.e. he shows a dominant characteristic of either a male or a female then he will be regarded as the same gender as the one with the dominant characteristic and the share will be given in accordance with that. However, if the hermaphrodite is indeterminate, i.e. neither his gender is known nor does he show any dominant characteristic for either gender, then he will have two scenarios:

#### ❖ First Scenario: (State of Hopefulness):

When the indetermination of the hermaphrodite is hoped to be alleviated in the future and his gender can be known or a dominant characteristic is anticipated to appear, such as if the indeterminate hermaphrodite is a child and it is hoped that this indetermination will be alleviated when he is an adult.

## Method of Solution:

If a hermaphrodite has the above scenario then the problem will be solved just like the case of the fetus, and two cases will be created for this. One case will be for being a male and the other for being a female. The rest of the process will be solved like the case of the fetus.

## Example:

A man dies and leaves behind a daughter, a full brother, and a hermaphrodite child.

Assumed Boy			Jaami'	Assumed Girl		Jaami'
Heirs	Share	3	3	Share	3	3
Daughter	Residue	3	1	$\frac{2}{3}$	2	1
Hermaphrodite Child			2			1
F Brother	X	X	X	Residue	1	1

**Note:** The asal mas'ala of both the cases is (3), so that is also the Jaami' Mas'ala. There is no need to separately calculate the Jaami' Mas'ala through L.C.M in this case.

## Explanation:

This problem is solved like the case of the fetus. In one case the full brother is not receiving any share, so he will not be given anything. The daughter is getting (1) share in all scenarios, so she will be given her (1) share. The hermaphrodite child is getting (1) share in one case and (2) shares in the other case. Therefore, he will be given (1) share and the remaining (1) share will be saved. Later on, if the gender of the hermaphrodite is determined to be male or closer to male then the saved (1) share will be given to him. And if it is found that the child is a female or closer to female, then the (1) share will go to the full brother.

## ❖ Second Scenario: (State of Despair):

When there is no hope that the indetermination of the hermaphrodite will ever be alleviated, such as when he dies while still a child, or his matter remains indeterminate even after reaching adulthood. In this case, the hermaphrodite will neither be given the share of a male nor that of a female, but he will be given the average of both the shares. In addition, the heirs along with him will also be given average shares.

### **Method of Solution:**

After solving both the assumed cases and calculating the Jaami' Mas'ala like in the previous method, we'll calculate a "Jaami' Waseet (Comprehensive Average Base)". To acquire the Jaami' Waseet, we'll multiply the already acquired Jaami Mas'ala with (2). The result of this multiplication will be the "Jaami' Waseet".

Now the shares that the heirs received under the Jaami' Mas'ala of both the cases will be written under the "Jaami' Waseet". If an heir received a share in only one case then that share will be written as it is under the Jaami' Waseet. And if an heir received a share in both the cases, then the sum of both the shares will be written under the Jaami' Waseet.

After that, every heir will receive a share from that Jaami' Waseet. The share of an heir will comprise of the shares he received in each assumed case, therefore, that will be regarded his average share.

### **Example:**

Consider the previous example and assume the hermaphrodite in that case to be a permanently indeterminate and solve the problem.

Assumed Boy			Jaami'	Assumed Girl		Jaami'	Jaami' Waseet
Heirs	Share	3	3	Share	3	3	$(3 * 2) = 6$
Daughter	Residue	3	1	$\frac{2}{3}$	2	1	$(1 + 1) = 2$
Hermaphrodite Child			2			1	$(2 + 1) = 3$
F Brother	X	X	X	Residue	1	1	1

The Jaami' Waseet is (6). The daughter will receive (2) shares. The Hermaphrodite child will receive (3) shares and the full brother will receive (1) share. Like this every heir will receive an average of his share [from both cases].

### Note:

If the hermaphrodites are more than one in number then the number of assumed cases will increase accordingly but the method of solution will remain the same.

### Benefit:

If the indeterminate hermaphrodite is a type of relative who will get the same amount of share in both cases, i.e. male or female, and he does not affect any other relatives in any case, then he can be given a share by creating only a single case for him. For example a uterine sibling who is an indeterminate hermaphrodite [because the share of a uterine sibling does not change no matter it's a male or a female]; similarly, a residuary such as a full sibling who is an indeterminate hermaphrodite and he is present along with the husband and daughter of the deceased [because a full sibling when present with a female descendant such as a daughter, becomes a residuary who gets the residue of the estate no matter a male or a female].

### Exercises:

- 1- A man dies and leaves behind a daughter and a hermaphrodite child
- 2- A man dies and leaves behind a mother, a father, and a hermaphrodite child.
- 3- A man dies and leaves behind a daughter, a full brother, and a consanguine hermaphrodite sibling.
- 4- A man dies and leaves behind a wife, a son and an indeterminate hermaphrodite child.
- 5- A woman dies and leaves behind a husband, a father, and an indeterminate hermaphrodite child.
- 6- A woman dies and leaves behind a daughter, a hermaphrodite son of the brother, and an uncle.



## CHAPTER FIVE: SIMULTANEOUS DEATH

### (الموت الجماعي) (الغرقى أو الهدمى)

#### Linguistic Meaning:

Al-Gharqaa (الغرقى) is the plural of Ghareeq (غرق) which means to die by drowning. And al-Hadmaa (الهدمى) is the plural of Hadeem (هديم) which means to die by being crushed under a collapsing building.

#### Technical Meaning:

In terms of Inheritance, the above two words or one of them is used to refer to a group of people who die simultaneously in an accident.

In the old times, simultaneous deaths used to occur mostly due to drowning or by being crushed under a collapsing building, that is why these words were used to refer to a group of people dying simultaneously in that time. However, nowadays there are a lot more causes of simultaneous deaths such as road accidents, plane accidents, battles and so on. That is why, it is better to refer to deaths occurring in such a manner as “Simultaneous Deaths (الموت الجماعي)”.

### Cases of Simultaneous Deaths

#### ❖ First Case:

It is known for a fact that all of the people have died simultaneously.

In this case, those dying simultaneously would not inherit anything from each other, because it is a condition for an heir that he must have died after his devisor (مورث), as it is explained in the Introduction. Therefore, in this case, the wealth of each deceased will only be distributed among his/her living heirs based on the general principle.

#### ❖ Second Case:

It is known for a fact as to who died when.

In this case, the one dying later will inherit the one dying before [if he is one of his heirs]. Thereafter, we'll distribute the estate to the living heirs of each deceased separately or by using the principle of Munaasakha based on the general principle.

### ❖ Third Case:

It is not known as to who died when, or if it is known that some of the people died after some others but none of their times of death is known, or if the time is known but it was later forgotten.

Nowadays, this case is not a common one because the knowledge of who died before and who died later in an accident is possible through the examination of the bodies. Nowadays, the medical tests and reports make it possible for us to know the timings of death, and with these medical reports, it is also not possible to forget it.

Based on this, it is rare in the modern times to have a need to solve this problem according to the old methods. However, it is quite possible that the bodies are buried without any medical examination, then this situation can present itself. Therefore, a solution to this problem is provided as well.

## Difference of Opinion among the Scholars:

If we encounter the third case of simultaneous deaths then in this situation, would the inheritance of those who died be distributed within themselves or not? The Scholars have differed on this issue.

### ○ First Opinion:

The view of the Maalikis, Shaafi'ees, Hanafees and the majority of the jurists is that in this situation, those who died simultaneously [i.e. without our knowledge of who died when] would not inherit anything from each other, because the fundamental condition for being an heir is that the heir's life is confirmed after the death of his devisor, whereas, in this situation, there is no way of knowing that. Therefore, inheritance would not be discharged.

### ○ Second Opinion:

The view of the Hanbalis and some other Scholars is that they will inherit from each other, but they will only inherit each other from each of their old/original wealth (tilaad) not from their new/adjusted wealth (tareef). The rest of the living heirs will inherit from both the old and the new wealth.

The word Tilaad (old wealth) refers to the wealth of the deceased which he owned before the accident. And Tareef (newly acquired wealth) refers to the wealth of the deceased that he acquired after the accident from the wealth of another deceased.

One deceased does not inherit from the tareef (new wealth) of another deceased because this would necessitate that the deceased becomes an heir of his own wealth. That is because the wealth of each deceased is going to be distributed among the other deceased. This means each deceased will have his own wealth returned back to him as well, and no person can become the heir of his own wealth.

## **Method of Solution**

### **The Method of Solution if there are Two Deceased Individuals in an Accident**

According to the second opinion, the method of solution for this problem is that the Tilaad (the old/original wealth) of both the deceased individuals will be distributed separately. First time, one of the two deceased people will be assumed to have died first, and thus, his tilaad will be distributed among the living and the [one] deceased heirs. The Second time, the other deceased person will be assumed to have died first, and thus, his tilaad will be distributed among the living and the [one] deceased heirs. Then the shares that went to the deceased heirs will be distributed among their living heirs only.

This distribution will be done based on the method of Munaasakha, and it has been explained in the chapter of Munaasakha that this distribution can be done in two ways. First by the method of succession i.e. solving the case of each deceased separately, and second, by using the Jaami' Mas'ala.

**Example:**

A husband and wife both died simultaneously due to the collapse of their house. The husband has a son and a mother among his heirs, and the wife has the same son and a father among her heirs.

**❖ Solution through the Method of Succession:**

➤ **Solving the problem by assuming the husband to have died first:**

**First Case:** The husband died and has a mother, a son, and a deceased wife among his heirs. The Tilaad of the husband will be distributed among his heirs.

Heirs	Share	24
Wife	$\frac{1}{8}$	3
Son	Residue	17
Mother	$\frac{1}{6}$	4

**Second Case:** The wife died after the husband, and she has a father and a son among her heirs.

Heirs	Share	6
Son	Residue	5
Father	$\frac{1}{6}$	1

The (3) shares that the wife received in the first case is the one that's distributed here.

➤ **Solving the problem by assuming the wife to have died first:**

**First Case:** The wife dies and has a father, a son and a deceased husband among her heirs. The Tilaad of the wife will be distributed among her heirs.

Heirs	Share	12
Husband	$\frac{1}{4}$	3
Son	Residue	7
Father	$\frac{1}{6}$	2

**Second Case:** The husband died after the wife and has a mother and a son among his heirs.

Heirs	Share	6
Son	Residue	5
Mother	$\frac{1}{6}$	1

The (3) shares that the husband received in the first case is the one that's distributed here.

In this entire process, we first distributed the Tilaad of each deceased among his/her living and deceased heirs. After that, the share that the deceased heir received was distributed among his/her living heirs only.

❖ **Solution through the use of Jaami' Mas'ala:**

❖ **Solving the problem by assuming the husband to have died first:**

The husband died and has a mother, a son, and a deceased wife among his heirs. The wife died after him and has a father and the aforementioned son among her heirs.

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	2 24 * 2	Heirs	Share	1 ⑥ 2	
Wife	$\frac{1}{8}$	③ <sub>1</sub>	Deceased	=	=	=
Son	Residue	17 * 2	Son	Residue	5 * 1	34 + 5 = 39
Mother	$\frac{1}{6}$	4 * 2	X	X	X	8
			Father	$\frac{1}{6}$	1 * 1	1

Like this, the Tilaad of the husband will first be distributed among his living and deceased heirs. Then the share received by the deceased heir will be distributed among his living heirs only.

❖ **Solving the problem by assuming the wife to have died first:**

The wife dies and has a father, a son and a deceased husband among her heirs. The husband died after her and has a mother and the aforementioned son among his heirs.

The case of First Deceased			The case of Second Deceased			Jaami'
Heirs	Share	2	Heirs	Share	1	
		$12 * 2$			$6 * 2$	24
Husband	$\frac{1}{4}$	$3 * 1$	Deceased	=	=	=
Son	Residue	$7 * 2$	Son	Residue	$5 * 1$	$14 + 5 = 19$
Father	$\frac{1}{6}$	$2 * 2$	X	X	X	4
			Mother	$\frac{1}{6}$	$1 * 1$	1

Like this, the Tilaad of the wife also gets distributed like the Tilaad of the husband.

### **The Method of Solution if there are Three Deceased Individuals in an Accident**

If there are three deceased people in an accident, then the Tilaad of all three deceased people will be distributed separately three times. The First time, one of the three deceased will be assumed to have died first and thus, his/her Tilaad will be distributed among the living and deceased heirs. The second time, the second deceased – and consequently the third time, the third deceased – will be assumed to have died first and thus, his/her Tilaad will be distributed accordingly. (If the number of deaths is more than three, the method will still remain the same).

### **The Method of Distribution of Tilaad for Each Deceased:**

The Tilaad of one deceased will be distributed among his living and deceased heirs. After that, the other two deceased heirs who received a share from that Tilaad, will have that share distributed among each of their living heirs.

This distribution can also be done in two ways:

- First: According to the method of Succession, i.e. first we'll create a case for one of the deceased and distribute his/her Tilaad among the living and the deceased heirs. Then the share that each deceased heir received will be distributed among his/her living heirs only. This method is quite clear.
- Second: According to the method of Jaami' Mas'ala, i.e. the Tilaad of any one of the deceased will be distributed among his/her living and deceased heirs all at once. One thing to remember in this method is that the shares of both the deceased who received a share from the third deceased will only be distributed among each of their living heirs.

### Example:

A husband, wife and their son died simultaneously because of a collapsed roof. The husband has a mother among his living heirs. The wife has a father among her living heirs. And the son has a son among his living heirs.

The solution for this problem according to the first method [i.e. succession] is quite clear, so we'll solve this problem according to the second method only.

Solving the Problem by assuming the Husband to have died first

			Second Deceased			Jaami' 6	Third Deceased 17			Jaami'
Heirs	Share	24	Heirs	Share	3	24	Heirs	Share	6	144
Wife	$\frac{1}{8}$	3	Deceased	=	=	=	=	=	=	=
Son	Residue	17	Son	--	--	17	Deceased	=	=	=
Mother	$\frac{1}{6}$	4	X		X	4 * 6	Father's Mother	$\frac{1}{6}$	1 * 17	24 + 17 = 41
			Father	All	3	3 * 6	X	X	X	18
							Son	Residue	5 * 17	85



Solving the Problem by assuming the Wife to have died first

1			Second Deceased 3			Jaami' 6	Third Deceased 7			Jaami'
Heirs	Share	$12 * 1$	Heirs	Share	(1)	12	Heirs	Share	(6)	72
Husband	$\frac{1}{4}$	(3)	Deceased	=	=	=	=	=	=	=
Son	Residue	$7 * 1$	Son	--	--	(7)	Deceased	=	=	=
Father	$\frac{1}{6}$	$2 * 1$	X	X	X	$2 * 6$	X	X	X	12
			Mother	All	$1 * 3$	$3 * 6$	Father's Mother	$\frac{1}{6}$	$1 * 7$	$18 + 7 = 25$
							Son	Residue	$5 * 7$	35

Solving the Problem by assuming the Son to have died first

6			Second Deceased 1			Jaami'	Third Deceased			Jaami'
Heirs	Share	$6 * 6$	Heirs	Share	(6)	36	Heirs	Share	(6)	36
Father	$\frac{1}{6}$	(1)	Deceased	=	=	=	=	=	=	=
Mother	$\frac{1}{6}$	$1 * 6$	Wife	--	--	(6)	Deceased	=	=	=
Son	Residue	$4 * 6$	Son's Son	Residue	$5 * 1$	$25 + 5 = 29$	Son's Son	Residue	5	$29 + 5 = 34$
			Mother	$\frac{1}{6}$	$1 * 1$	1	X	X	X	1
							Father	$\frac{1}{6}$	1	1

## PART SIX: WEALTH DISTRIBUTION

The method of distributing the wealth is very easy. The formula for that is as follows:

The total wealth will be divided by the Asal Mas'ala (Base Figure). The result will be multiplied by the share of each individual heir. What you get is the share of that heir.

$$\text{WEALTH} \div \text{ASAL MAS'ALA} \times \text{SHARE}$$

### Example:

A man dies leaving behind one-hundred and twenty thousand dollars (\$ 120,000) in wealth. He has a wife, a mother and a full brother among his heirs.

Heirs	Share	12	120,000	
Wife	$\frac{1}{4}$	3	30,000	$120,000 \div 12 * 3$
Mother	$\frac{1}{3}$	4	40,000	$120,000 \div 12 * 4$
F Brother	Residue	5	50,000	$120,000 \div 12 * 5$

$$\begin{array}{r} 10000 \\ 120000 \\ \hline 12 \\ 1 \end{array} * 3 = 30,000$$

$$\begin{array}{r} 10000 \\ 120000 \\ \hline 12 \\ 1 \end{array} * 5 = 50,000$$

$$\begin{array}{r} 10000 \\ 120000 \\ \hline 12 \\ 1 \end{array} * 4 = 40,000$$

**Note:** Keep in mind that in the cases of Return and Munaasakha, the process of distribution of wealth is done in several steps.

## DHAWUL-ARHAAM (THE DISTANT KINDRED / 3rd TIER RELATIVES)

We did not discuss the details of dhawul-arhaam under the types of Heirs before because it is very rare that it comes to giving them a share in inheritance. So finally, we'll discuss them here very briefly and mention only the specific details which are raajih [most accurate] according to us, and which would be sufficient for learning the method of distributing inheritance among them.

### Linguistic Meaning:

“Arhaam” is the plural of “Rahim” and it refers to the womb of a woman. According to the general understanding, any relative who comes into relation through the womb is called a Rahmi Relative [or blood relative].

### Technical Meaning:

In terms of inheritance, Dhawul-Arhaam refers only to those relatives of the deceased who are neither Ashaab ul-Furoodh (Fixed Sharers) nor ‘Asabah (Residuary).

The evidence for giving inheritance to the Dhawul-Arhaam:

"وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ"

“And those of [blood] relationship are more entitled [to inheritance] in the decree of Allah”

[al-Ahzaab (33: 6)]

This verse specifies a general principle that blood relatives (dhawul-arhaam) are entitled to the inheritance of a deceased. Therefore, if no one from the original and the specified heirs is alive, then the wealth of the deceased will go to his/her other blood relatives.

## The List of Dhawul-Arhaam:

Just like the original heirs, we can also categorize the dhawul-arhaam into groups. Since Zawjayn (Spouses) do not come under Dhawul-Arhaam, that is why this group will be excluded, but the other three groups can be created for Dhawul-Arhaam as well.

### ❖ Furoo' (Descendants): – Children of Daughters and Children of Sons' Daughters ( أولاد البنات وأولاد بنات البنين )

The typical heirs in this group are: son, his children, daughter, and son's daughter. Those that remain are: the children of daughter, and the children of son's daughter, so they will come under Dhawul-Arhaam.

### ❖ Usool (Ascendants): – False Grandfather and False Grandmother ( الجد الفاسد والجدّة الفاسدة )

The typical heirs in this group are: the parents, true grandfather, and true grandmother. Those that remain are: false grandfather and false grandmother, so they will come under dhawul-arhaam.

### ❖ Hawaashi (Parallel Relatives): –

#### Siblings (إخوة):

Children of Uterine Siblings, Children of Sisters of all types (i.e. full, consanguine or uterine), Daughters of Non-Uterine Siblings, and Daughters of the Sons of Non-Uterine Siblings and their offspring ( أولاد الإخوة لأم والأخوات مطلقاً، وبنات الإخوة لغير أم، وبنات بنينهم وأولادهن )

#### Unclehood (عمومة):

- (From the Father's Side i.e. Father's siblings)  
 Uterine Uncle, All kinds of Aunts (i.e. full, consanguine or uterine) and the children of all of these (العم لأم والعمات مطلقاً وأولادهم)  
 Daughters of Non-Uterine Uncles and Son's Daughters of Non-Uterine Uncles, and their children (بنات العم لغير أم وبنات بنيتهم وأولادهن)
- (From the Mother's Side)  
 Mother's Brothers and Sisters of all kinds, and their children (الأخوال مطلقاً والخالات مطلقاً وأولادهم)

**Note:** If anyone else is related to the deceased through the connection of any of the above dhawul-arhaam then he/she will also be counted as dhawul-arhaam such as: Mother's Brother's Son (ابن الخال) and Father's Sister's Son (ابن العمّة) and so on.

## The Distribution of Inheritance among the Dhawul-Arhaam:

There is a difference of opinion on how to distribute inheritance among the Dhawul-Arhaam (distant kindred) in the absence of the original heirs. One opinion is that every distant kindred will be given the share of the original heir who he/she relates to. This method is called the method of "Tanzeel (Carrying Down)". In other words, the distant kindred will take the place of the original heir and will receive the share of that original heir. This is the most accurate opinion according to us.

One difference of opinion among the proponents of Tanzeel is that those original heirs who receive a share based on the principle: {the share of the male will be twice that of the female} – would their blood relatives be also given shares based on the same principle, or would they be analogized on the uterine siblings and given equal shares?

### First Opinion:

The view of the majority is that among the original heirs, uterine siblings who are blood relatives are given shares based on equality, and since dhawul-arhaam are also blood relatives, so they will be likened with the uterine siblings and given shares based on equality.

## Second Opinion:

[According to this view], the blood relatives of the uterine siblings will be given shares based on the principle of equality, but the other blood relatives will not be dealt with in the same manner. That is because in the method of Tanzeel, we are putting the blood relative [distant kindred] in place of the original heir. Therefore, wherever there is equality among the original heirs, equality will be practiced [in their corresponding distant kindred relative] such as the case of uterine siblings; and wherever the principle of: {the share of the male will be twice that of the female} is used [for the original heir], the same principle will be applied [to the corresponding blood relative].

Shaykh Ibn Uthaymeen (rahimahullah) has mentioned this as one of the opinions of Imaam Ahmad (rahimahullah) and he preferred it. [Tasheel ul-Faraa'idh: p. 60, 61]

This second opinion is stronger, but according to us, the more appropriate opinion is that, instead of talking about doing equality among the blood relatives of the uterine siblings, we should talk about doing equality among those relatives who are uterine siblings of the original heir, such as the uterine siblings of the father. That is because if we are applying the principle of Tanzeel – i.e. we are giving a blood relative the position of an original heir – then whatever position the original heir holds in a given situation, a blood relative should also have the same position in that situation.

[Trans: This means, if equality is applied for an original heir in case of him being a uterine sibling, then if a blood relative is in the same position i.e. he is a uterine sibling, then the same principle should be applied to him in that condition].

## Method of Distribution:

Whoever among the original heirs the [distant] blood relatives are related to, those original heirs will first be assigned their usual shares according to the rules of inheritance. Then the share of each original heir will be entrusted to their blood relatives, who can be one or more in number. So, this process is done in two steps.

### **Step One:**

First, we'll assume that the original heirs [that the distant kindred are related to] are alive, and they will be given their shares accordingly.

### **Step Two:**

Then those original heirs will be assumed dead, and the share of each one of them will be distributed among their relatives.

### **Example:**

Zaid died and none of his original heirs are alive but among his distant kindred, he has a maternal grandfather (mother's father) Mustafa, daughter's son Hasan, daughter's daughter Faatimah, and niece (full brother's daughter) Rabi'ah.

### **Solution:**

Ignoring the distant kindred relatives, we'll first give shares to their corresponding original heirs. In place of Mustafa, the corresponding original heir would be the mother of the deceased. In place of Hasan and Faatimah, the original corresponding heir would be the daughter of the deceased. And in place of the niece Rabi'ah, the original corresponding heir would be the full brother.

We'll first assign shares to these original heirs by assuming them to be alive.

Dhawul-Arhaam	Original Heirs	Share	6	Shares of Dhawul-Arhaam
Mother's Father (Mustafa)	Mother	$\frac{1}{6}$	1	1
Daughter's Son (Hasan)	Daughter	$\frac{1}{2}$	3	2
Daughter's Daughter (Faatimah)				1
F Brother's Daughter (Rabi'ah)	F Brother	Residue	2	2

The Asal Mas'ala is (6). Mother received one-sixth i.e. (1) share, daughter receives one-half i.e. (3) shares, and the rest i.e. (2) shares go to the full brother.

After that, we assumed these original heirs to be dead and distributed their shares among their heirs according to the rules of inheritance.

### The Distribution of Mother's Share:

Mother received (1) share. She has only one heir, who is her father Mustafa, therefore, this share will go to Mustafa.

### The Distribution of Daughter's Share:

Daughter received (3) shares. She has two heirs; her son Hasan and daughter Faatimah. Therefore, these (3) shares will go to both of them. According to the principle: {the share of a male will be twice that of a female}, Hasan will receive (2) shares and Faatimah will receive (1) share.

### The Distribution of Full Brother's Share:



Full Brother received (2) shares. He has one heir, his daughter Rabi'ah. Therefore, these (2) shares will go to Rabi'ah. (Based on fardh and radd).

### Second Example:

Khalid died and no one from his original heirs is alive. However, among his distant kindred, he has a uterine uncle (father's uterine brother) Abbas, a uterine aunt (father's uterine sister) Maryam, and a full maternal uncle (mother's full brother) Zayd.

### Solution:

Ignoring the distant kindred relatives, the corresponding original heir in place of Abbas and Maryam is the deceased's father. And in place of Zayd, the original corresponding heir is the deceased's mother.

First of all, we'll assume all of these original heirs to be alive and assign shares to them.

Dhawul-Arhaam	Original Heirs	Share	3	3
Father's Uterine Brother (Abbas)	Father	Residue	2	1
Father's Uterine Sister (Maryam)				1
Mother's Full Brother (Zayd)	Mother	$\frac{1}{3}$	1	1

The Mother will receive one-third because there is neither anyone among the descendants nor are there siblings in plural, i.e. the number of siblings is not more than one as there is no sibling at all.

After that, the father will receive all of the rest of the estate because of being 'asabah.

After that, we'll assume the original heir, i.e. Khalid's father to be dead, and distribute the estate among his heirs based on the rules of inheritance.

The father received the entire rest of the estate and among his heirs, he has a uterine brother Abbas and a uterine sister Maryam. Both of these are uterine siblings, therefore, Khalid's estate will be distributed among the two of them equally. (Based on fardh and radd).

**Note:** If someone among the dhawul-arhaam is related to the deceased via two relations then he will receive the share of both relations. For example: A man died and among his relatives he has a daughter's daughter's son who is also his daughter's son's son [i.e. his daughter's daughter and another daughter's son got married and had a son together]. In addition, he also has an aunt's daughter [father's sister's daughter].

Dhawul-Arhaam	Relation	Original Heirs	Share	6	6
Son of Two Grandchildren	Daughter's Daughter's Son	Daughter	$\frac{2}{3}$	4	4
	Daughter's Son's Son	Daughter			
Aunt's Daughter	Father's Sister's Daughter	Father	$\frac{1}{6} + \text{Residue}$	1 + 1	2

## Method of Distributing Wealth among the Creditors

If the wealth of the deceased is less in such a way that the sum of all debts due to the creditors is more than the wealth itself, then all of the wealth will be distributed among the creditors, and every creditor will receive an amount proportional to the amount owed to him.

**Example:** The entire sum of wealth left by Zaid is \$9, and there are two creditors, one of them is owed \$5 and the other is owed \$10. How much of the wealth (9) would each creditor receive?

This problem can be solved through any one of the following two methods.

### First Method (Using the Calculator):

Share of a Given Creditor can be represented by:  $\text{Wealth} \div \text{Sum of all Debts} \times \text{a Single Debt}$

In a calculator, enter the amount of wealth left by the deceased. Press the divide sign and enter the total sum of all debts owed, then press the multiplication sign and enter the amount of any one of the creditors, and then press the equal sign. The amount that displays is the share of a given creditor. Repeat the same process for each creditor to know his share.

### Second Method (Using Fraction):

Write the wealth left by the deceased as the Numerator, and the sum of all debts as the Denominator. Then multiply this division by the amount of each creditor one by one. Simplify wherever possible. The resulting number would be the share of a given creditor.

$$\frac{\cancel{9}^3}{\cancel{15}_5} \times \frac{2}{\cancel{10}_5} = 6$$

$$\frac{\cancel{9}^3}{\cancel{15}_5} \times \frac{1}{\cancel{5}_1} = 3$$

## Disengage/Break Off (تخارج)

**Linguistic Meaning:** “Takhaaruj” comes from “Khurooj” which means to come out.

**Technical Meaning:** An heir negotiates with the other heirs in favor of getting a specific part of the estate or something other than the estate in exchange for leaving his/her share in inheritance.

**Solution:** If an heir decides to break off from his share in inheritance, then we'll first solve the case by including that heir according to the usual method of distribution. Then, we'll cross out the disengaging heir and his share, and then we'll solve the problem like the “Case of Return” and make the sum of the shares of all remaining heirs to be the new Asal Mas'ala, and divide the estate accordingly.

**Example:** A woman dies and leaves behind a husband, a daughter, and a full brother. The Husband decides to disengage.

Heirs	Share	<del>4</del> 3
<del>Husband</del>	<del><math>\frac{1}{4}</math></del>	<del>1</del>
Daughter	$\frac{1}{2}$	2
F Brother	Residue	1

Keep in mind that we cannot distribute by excluding the husband from the case in the beginning, because otherwise, the other heirs would not receive shares based on their rights. For example, in the same case if we exclude the husband from the beginning, the daughter would receive a less share.

In fact, it is also possible that the one who disengages is a haajib (blocker), so if we exclude him from the beginning, then a new heir could be added into the case who was previously being blocked.

# Inheritance of Grandfather With Siblings

## (ميراث الجد مع الإخوة)

According to the most correct opinion, the presence of “grandfather” would cause all the “siblings” to be blocked (mahjoob). However, some jurists are of the opinion that “siblings” would also inherit with the “grandfather”. The opinion of Zaid bin Thaabit (radiallah anhu) is famous among them. The gist of that opinion is as follows:

❖ **First Case:** There is no Fixed Sharer in the case:

In this case, grandfather will be given what is more advantageous to him among muqasamah (<sup>16</sup>) and one-third.

❖ **Second Case:** There is a Fixed Sharer in the case:

In this case, grandfather will be given what is more advantageous to him among muqasamah (division), one-sixth, and one-third of the residue.

And if after giving fixed sharers their shares, there remains only one-sixth or less behind, then that will be given to the grandfather and the siblings will be blocked (mahjoob), except in the case of Akdariyah, which is explained below.

- **Mu'aaddah:** In any one of the two mentioned cases [where muqaasamah is more advantageous to the grandfather], if both types of siblings are present (i.e. full sibling and consanguine sibling), then all of the siblings would be counted in order to reduce the share of grandfather. Based on that, after giving grandfather his share, the share of the siblings would be summed up and given only to the full sibling, and consanguine sibling would be blocked (mahjoob) by the presence of a full sibling. An exception to this is when there is only a full sister and the

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**16 - Muqaasamah (Division)** means to regard the grandfather like a brother and count him among the brothers then distribute the shares among them based on the principle {the share of a male will be twice that of the female}. Note that if the combined shares of the siblings is less than twice the share of the grandfather, then muqaasamah is more advantageous. But if they are more than that, then one-third is more advantageous. If they are equal, then muqaasamah and one-third are equal.

remaining wealth is more than one-half, then the additional wealth will be given to the consanguine sibling. This is according to masaa'il zaidiyaat.

**Note:** If the shares of the full siblings is more than twice the share of grandfather, or the wealth remaining after being distributed to the fixed sharers is less than one-third then in this case the share of the grandfather will be reduced on its own, therefore, there is no need of mu'aaddah here.

- **Akdariyah:** If there are husband, mother, grandfather, and a full or consanguine sister in a case, then in this specific case, Zayd bin Thaabit (radiallah anhu) has given a verdict that is different from his principles. That is why this is called "Mas'ala Akdariyah". Zayd bin Thaabit (radiallah anhu) solved this case by giving one-sixth to the grandfather and one-half to the sister. Then after doing 'awl, the shares of grandfather and sister will be added together and re-distributed among them based on the principle: {the share of a male will be twice that of the female}.

# INHERITANCE CHART

Spouses		Descendants		Ascendants		Siblings	
	(Male)		(Male)		(Male)		(Male)
<b>Husband</b>		They're all 'Asabah bil-Nafs		<b>Father</b>		<b>Uterine Brother</b>	
1/4	With Descendant		(Female)	1/6	With Male Descendant	Blocked by	Any descendant and/or male ascendant
1/2	No Descendant	<b>Daughter</b>		1/6 + Residue	With only female descendant	1/3	Plural
	(Female)	'Asabah	With Asib	Residue	None of the above	1/6	Singular
	<b>Wife</b>	2/3	Plural	<b>True Grandfather</b>		(Female)	
1/8	With Descendant	1/2	Singular	Blocked by	Father, or a closer grandfather	<b>Full Sister</b>	
1/4	No Descendant	<b>Son's Daughter</b>		1/6	With Male Descendant	Blocked by	Male ascendant or descendant
		Blocked by	Son, Presence of 2/3 receiving Daughters and she has no asib	1/6 + Residue	With only female descendant	Asabah	With Asib
		Asabah	With Asib	Residue	None of the above	Residue	With female descendant
		1/6	With 1/2 receiving daughter	(Female)		2/3	Plural
		2/3	Plural	<b>Mother</b>		1/2	Singular
		1/2	Singular	1/6	With Descendant or Plural Siblings	<b>Consanguine Sister</b>	
				1/3	No Descendant and No Plural Siblings	Blocked by	Male descendant or ascendant, F Brother, F Sister
				<b>True Grandmother</b>		Asabah	
				Blocked by	Mother or a closer grandmother	Residue	With female descendant
				1/6	No Blocker	1/6	One-half receiving F Sister
						2/3	Plural
						1/2	Singular
						<b>Uterine Sister</b>	
						Just like Uterine Brother	

**Note:**  
Keep the order of these cases under consideration. When any of the earlier cases are found true, all of the later cases are considered nonexistent; and when any of the later conditions are found true, all of the earlier ones are considered nonexistent





# Appendix A

## GLOSSARY

<b>‘Asib (عاصب)</b>	A male residuary who causes a corresponding female to become ‘asabah along with him. See: Asabah bil-Nafs.
<b>‘Asabah (عصبة)</b>	Residuary. An heir who gets the residue of the wealth i.e. those who inherit what's left of the wealth after being distributed among the fixed sharers instead of having a fixed share of their own. Used both for singular and plural. An heir can be a fixed sharer, a residuary or both at the same time.
<b>‘Asabah bil-Ghayr (عصبة بالغير)</b>	Residuary by another. A female heir who inherits as a residuary because of being present with an eligible and parallel ‘asabah bil-nafs.
<b>‘Asabah bil-Nafs (عصبة بالنفس)</b>	Residuary by themselves. It refers only to the male agnates.
<b>‘Asabah ma’ al-ghayr (عصبة مع الغير)</b>	Residuary with Another. A full or consanguine sister who inherits all of the residue of the estate when the deceased has only female(s) as the descendants, and the sister has no corresponding brother.
<b>Asal Mas’ala (أصل المسألة)</b>	The Base Figure. The lowest number that will allow the shares of inheritance to be represented by whole numbers, i.e. without fraction. In other words, the number of divisions the wealth of the deceased will be divided into in order to give every heir a number of divisions represented by a whole number.

<b>Ashaab ul-Furoodh (Saahib ul-Fardh)</b> (أصحاب الفروض / صاحب الفرض)	A fixed sharer. An heir of the deceased whose share is pre-determined or fixed by the Qur'an or hadeeth.
<b>Asl (pl. Usool)</b> (أصول)	Ascendants of the deceased whether direct or distant, such as parents, grandparents, and great grandparents.
<b>Consanguine Brother/Sister</b> (الأخ لأب / الأخت لأب)	Half/Step siblings. A brother or sister with the same father but different mothers.
<b>Consanguine Uncle</b> (العم لأب)	Father's consanguine brother.
<b>Dhawul-Arhaam</b> (ذوو الأرحام)	Distant Kindred or 3 <sup>rd</sup> Tier Relatives. The relatives of the deceased who are neither ashaab ul-furoodh nor 'asabah.
<b>Disengage</b> (تخارج)	Process of negotiating one's share in inheritance with the other heirs, and leaving one's share in exchange for an agreed upon property or deal.
<b>False Grandfather</b> (الجد الفاسد)	A grandfather up to whom there is a female in the lineage. For example: Mother's Father, Father's Mother's Father and so on.
<b>False Grandmother</b> (الجدّة الفاسدة)	A grandmother in the lineage to whom there occurs a false grandfather. In other words, the lineage has the occurrence of a male after the occurrence of a female. It includes: Mother's Father's Mother, and Father's Mother's Father's Mother.
<b>Far' (pl. Furoo')</b> (فروع)	Descendants of the deceased whether direct or distant such as son, son's son, son's daughter, daughter's daughter and so on.
<b>Fardh (pl. Faraa'idh)</b>	Inheritance / Fixed Share

<b>Full Brother/Sister</b> (الأخ الشقيق / الأخت الشقيقة)	Full/German siblings. A brother or sister with the same father and the same mother.
<b>Full Uncle (العم الشقيق)</b>	Father's full brother.
<b>Haajib (حاجب)</b>	The one who blocks another heir from getting a share is called a Haajib. See: Hajab.
<b>Hajab (حجب)</b>	Blockage / Exclusion. When an heir blocks another heir of the deceased from getting a share, this is called hajab.
<b>Hawaashi (حواشي)</b>	Side/Parallel relatives of the deceased such as siblings, and parents' siblings.
<b>Ilm (علم)</b>	Science / Knowledge / Field
<b>Kalaalah (كلالة)</b>	A deceased who has neither ascendants nor descendants.
<b>Khuntha (الخنثي)</b>	A hermaphrodite. One having both male and female reproductive parts.
<b>Mahjoob (محجوب)</b>	The one who is blocked by another heir from getting a share is called Mahjoob. See: Hajab
<b>Mawrooth (موروث)</b>	The wealth or estate that is inherited. See: Tarikah.
<b>Meeraath (pl. Mawareeth)</b> (ميراث)	Inheritance
<b>Munaasakha (المناسخة)</b>	Before the estate of the deceased is distributed, if one or more of his heirs pass away, then the share of that deceased heir is distributed among his own heirs. This process of passing along the distribution is called "Munaasakha (مناسخة)".
<b>Muwareeth (مورث)</b>	Devisor / One who is Inherited / the Deceased

<b>Tarikah (تركة)</b>	Wealth or Estate left behind by a deceased
<b>The case of Deficiency (المسألة الناقصة)</b>	When the sum of the shares of ashaab ul-furoodh (fixed sharers) is less than the amount of asal mas'ala. In other words, when the estate cannot be equally distributed among the fixed sharers rather there remains something behind and the total amount of the fixed shares is less than the available wealth and there is no 'asabah (residuary) to take the residue.
<b>The case of Equilibrium (المسألة العادلة)</b>	When the sum of the shares of ashaab ul-furoodh (fixed sharers) is equal to the exact amount of the asal mas'ala. In other words, when the entire estate gets equally distributed among the fixed sharers and there is nothing left behind.
<b>The case of Excess (المسألة العول)</b>	When the sum of the shares of ashaab ul-furoodh (fixed sharers) exceeds the amount of the asal mas'ala. In other words, when the estate cannot be equally distributed among the fixed sharers rather the number of fixed sharers or the amount of their fixed shares is more than the available wealth.
<b>True Grandfather (الجد الصحيح)</b>	A grandfather up to whom there is no female in the lineage. For example: Father's Father, Father's Father's Father and so on.
<b>True Grandmother (الجدّة الصحيحة)</b>	A direct true grandmother includes: Father's mother / Mother's mother. A distant true grandmother includes any grandmother such that there does not occur a male after the occurrence of a female in the lineage. It includes: Mother's Mother's Mother, Father's Mother's Mother, Father's Father's Mother and so on.

<b>Uterine Brother/Sister</b> (الأخ لأُم / الأخت لأُم)	Half/Step siblings. A brother or sister with the same mother but different fathers.
<b>Uterine Uncle</b> (العم لأُم)	Father's uterine brother.
<b>Waarith (وارث)</b>	Heir / Inheritor / One who inherits
<b>Zawjayn (زوجين)</b>	Spouses i.e. Husband and Wife

## Appendix B

### LIST OF QUR'ANIC VERSES

[Al-Nisaa (4: 11)]

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُن لَهُ وَلَدٌ وَوَرِثَهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۖ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا ۖ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

“Allaah commands you regarding your children: the share of the male will be twice that of the female. But, if they are (only) women, two or more, then they get two-thirds of what one leaves behind. And if there is only one female, her share will be one-half. As for his parents, for each of them, there is one-sixth of what he leaves in case he has a child. But if he is childless and his parents are the only heirs, then his mother will receive one-third. But if he leaves some siblings [i.e. plural], then his mother will receive one-sixth — all after (settling) the will he might have made, or a debt. You do not know who, out of your fathers and your sons, is closer to you in benefiting (you). All this is determined by Allah. Surely, Allah is All-Knowing, All-Wise”

[Al-Nisaa (4: 12)]

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِن لَّمْ يَكُن لَّهُنَّ وَلَدٌ ۚ فَإِن كَانَ هُنَّ وَلَدٌ فَلَكُمُ الرُّبْعُ مِمَّا تَرَكَنَّ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ وَلَهُنَّ الرُّبْعُ مِمَّا تَرَكَتُم إِن لَّمْ يَكُن لَّكُمْ وَلَدٌ ۚ فَإِن كَانَ لَكُمْ وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُم ۚ مِن بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ ۚ وَإِن كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ ۚ فَإِن كَانُوا أَكْثَرَ مِن ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ ۚ مِن بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ غَيْرِ مُضَارٍ ۚ وَصِيَّةً مِّنَ اللَّهِ ۚ وَاللَّهُ عَلِيمٌ حَلِيمٌ

“For you there is one-half of what your wives leave behind, in case they have no child. But, if they have a child, you get one-fourth of what they leave — after (settling) the will they might have made, or a debt. For them (the wives) there is one-fourth of what you leave behind, in case you have no child. But, if you have a child, they get one eighth of what you leave — after (settling) the will you might have made, or a debt. And if a man or a woman is Kalaalah (i.e. has neither parents alive, nor children) and has a [uterine] brother or a sister, then each one of them will get one-sixth. However, if they are more than that, they will be sharers in one-third — after (settling) the will that might have made, or a debt, provided that the will must not be intended to harm anyone. This is a commandment from Allah. And Allah is All-Knowing, Most Forbearing”

[Al-Nisaa (4: 176)]

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ ۚ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ ۚ وَهُوَ يَرِثُهَا إِن لَّمْ يَكُنْ لَهَا وَلَدٌ ۚ إِن كَانَتَا اثْنَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ ۚ وَإِن كَانُوا إِخْوَةً رِّجَالًا وَنِسَاءً فَلِلَّذَكَرِ مِثْلُ حَقِّ الْأُنثَيَيْنِ ۚ يُبَيِّنُ اللَّهُ لَكُمْ أَن تَضِلُّوا ۚ وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ

“They ask you for a ruling. Say, “Allah gives you the ruling concerning Kalālah. If a person dies having no child, but he does have a sister, then, she will get one half of what he leaves. (On the other hand) He will inherit her if she has no (male) child. If they are two (sisters), they will get two third of what he leaves. If they are brothers and sisters, both male and female, then, the male will get a share equal to that of two females. Allah explains to you, lest you should go astray. Allah has full knowledge of everything.”

[Al-Ahzaab (33: 6)]

وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ

“And those of [blood] relationship are more entitled [to inheritance] in the decree of Allah”

## Appendix C

### LIST OF PROPHETIC SAYINGS

- 1- Anas bin Maalik (radiallah anhu) narrates:

أن رسول الله صلى الله عليه وسلم قال: «أرحم أمتي بأمتي أبو بكر، وأشدّهم في دين الله عمر، وأصدقهم حياء عثمان، وأقضاهم علي بن أبي طالب، وأقرؤهم لكتاب الله أبي بن كعب، وأعلمهم بالحلّال والحرام معاذ بن جبل، وأفرضهم زيد بن ثابت، ألا وإن لكل أمة أميناً، وأمين هذه الأمة أبو عبيدة بن الجراح»

“The Messenger of Allaah (ﷺ) said: The most merciful of my Ummah towards my Ummah is Abu Bakr; the one who adheres most sternly to the religion of Allah is 'Umar; the most sincere of them in shyness and modesty is 'Uthman; the best judge is 'Ali bin Abu Talib; the best in reciting the Book of Allah is Ubayy bin Ka'b; the most knowledgeable of what is lawful and unlawful is Mu'adh bin Jabal; and the most knowledgeable of the rules of inheritance (Fara'idh) is Zaid bin Thabit. And every nation has a trustworthy guardian, and the trustworthy guardian of this Ummah is Abu 'Ubaidah bin Jarrah.”

[Sunan Ibn Maajah (154), Saheeh]

- 2- The Prophet (ﷺ) said:

«الثلث والثلث كثير»

“(Bequest of) One-Third (is permissible), and (even) one-third is a lot”

[Saheeh Bukhaari (5354)]

- 3- He (ﷺ) said:

«إن الله قد أعطى كل ذي حق حقه فلا وصية لوارث»

“Allaah has appointed for everyone who has a right what is due to him, so no bequest must be made to an heir”

[Sunan Abu Dawood (2870), Saheeh]



4- He (ﷺ) said:

"إِنَّمَا الْوَلَاءُ لِمَنْ اعْتَقَ"

“Walaa is for the one who manumits”

[Saheeh Bukhaari (6752)]

5- He (ﷺ) said:

"لَيْسَ لِلْقَاتِلِ مِنَ الْمِيرَاثِ شَيْءٌ"

“There is no share of inheritance for a murderer (who kills his muwarrath)”

[Sunan Daaraqutni (5/170 H. 4149), Hasan Lighayrih]

6- He (ﷺ) said:

"لَا يَرِثُ الْمُسْلِمُ الْكَافِرَ وَلَا الْكَافِرُ الْمُسْلِمَ"

“A Muslim does not inherit from a non-Muslim, nor does a non-Muslim inherit from a Muslim.”

[Saheeh Bukhaari (6764)]

7- He (ﷺ) said:

"وَمَنْ ابْتَعَ عَبْدًا وَلَهُ مَالٌ فَمَالُهُ لِلَّذِي بَاعَهُ، إِلَّا أَنْ يَشْتَرِطَ الْمُبْتَاعُ"

“If somebody buys a slave having some property, the property will belong to the seller unless the buyer stipulate that it should belong to him”

[Saheeh Bukhaari (2379)]

8- **The hadeeth of ‘Asabah.** He (ﷺ) said:

"أَخْصُوا الْفَرَائِضَ بِأَهْلِهَا، فَمَا بَقِيَ فَهُوَ لِأَوَّلَى رَجُلٍ ذَكَرَ"

“Give the Faraa’id to those who are entitled to receive it. Then whatever remains, should be given to the closest male relative of the deceased”

[Saheeh Bukhaari (6732)]

9- **The hadeeth of Ibn Mas’ood (radiallah anhu).**

"عن هزيل بن شرحبيل، قال: سئل أبو موسى عن بنت وابنة ابن وأخت، فقال: للبنت النصف، وللأخت النصف، وأت ابن مسعود، فسيتابعتني، فسئل ابن مسعود، وأخبر بقول أبي موسى فقال: لقد ضللت إذا وما أنا من المهتدين، أقضي فيها بما قضى النبي صلى الله عليه وسلم: «للأبنة النصف، ولأبنة ابن السدس تكملة الثلثين، وما بقي فلأخت» فأثينا أبا موسى فأخبرناه بقول ابن مسعود، فقال: لا تسألوني ما دام هذا الخبر فيكم"

"Abu Musa was asked regarding (the inheritance of) a daughter, a son's daughter, and a sister. He said, "The daughter will take one-half and the sister will take one-half. If you go to Ibn Mas'ood, he will tell you the same." Ibn Mas'ood was asked and was told of Abu Musa's verdict. Ibn Mas'ood then said, "If I give the same verdict, I would stray and would not be of the rightly-guided. The verdict I will give in this case, will be the same as the Prophet (ﷺ) did, which is that, one-half is for the daughter, and one-sixth for the son's daughter, making two-thirds complete; and the rest is for the sister." Afterwards, we came to Abu Musa and informed him of Ibn Mas'ood's verdict, whereupon he said, "Do not ask me for verdicts, as long as this learned man is among you.""

[Saheeh al-Bukhaari (6736)]

**10- The hadeeth of Grandmother.** Buraydah (radiallah anhu) narrates:

«أن النبي صلى الله عليه وسلم جعل للجدّة السدس، إذا لم يكن دوها أم»

"The Prophet (ﷺ) appointed a sixth to a grandmother if no mother is left to inherit before her."

[Sunan Abu Dawood (2895), Hasan Lighayrih]

**11- He (ﷺ) said:**

"مَنْ تَرَكَ مَالًا فَلَوْرَثَتِهِ"

"If anyone leaves property, it goes to his heirs"

[Saheeh al-Bukhaari (2298)]

**12- He (ﷺ) said:**

" لا يرث المصبي حتى يستهل صارخا"

"A [new born] baby does not inherit until he raises his voice or cries"

[Sunan Ibn Maajah (2751), Chain Hasan]

